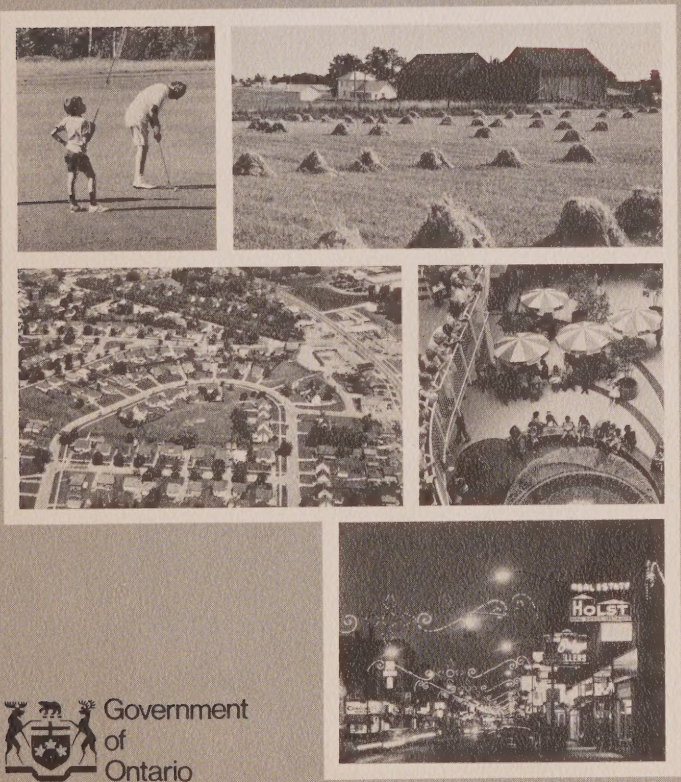
The Planning Act

A Draft for Public Comment



Government of Ontario

Additional copies of this publication may be obtained from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario M7A 1N8.

Price: $1.00

The Planning Act

A Draft for Public Comment

December 1979

Government of Ontario


MAY
16

Ontario

Office of the Minister

Ministry of Housing

Hearst Block
Queen's Park
Toronto Ontario
M7A 2K5
416/965-6456

It gives me great pleasure to release this draft of a proposed new Planning Act for Ontario. The draft Act follows upon the publication of the White Paper on The Planning Act in May 1979.

The draft legislation translates into legislative terms the conclusions contained in the White Paper. Some changes have been made resulting partly from the consideration of preliminary concerns expressed on the White Paper and partly from the technical implementation of some proposals. These changes are all clearly identified in the explanatory notes that accompany the legislation.

To further clarify how the revised planning system will work, the second part of this publication includes summaries of the main provisions of the key procedural regulations which will be issued at the same time the new Act comes into force. Also included is an explanation of the nature and purpose of the new provincial policy statements proposed in the White Paper.

One area that has not been covered in the draft legislation deals with the transitionary provisions that will need to be included before the Act is introduced into the Legislature. This is seen as a specific technical aspect that should not hinder an understanding of the new Act itself.

Over the next few months, senior staff from my Ministry will be conducting across the Province a series of workshops for municipal representatives so that questions and concerns arising from the White Paper and the draft Act may be addressed before final submissions are made to us. I would remind you that submissions are to be made by March 31st, 1980.

Finally, I would stress that this document is a proposed Act for discussion purposes only. While it represents the form that the proposed legislation will take, as closely as possible, it is still in draft form and, of course, has not been given first reading by the Legislature.

Your comments should be sent to:

Ministry of Housing
Local Planning Policy Branch
56 Wellesley St. W., 3rd Flr.
Toronto, Ontario M7A 2K4

Claude F. Bennett
Minister

Contents

The Planning Act

Index of the Act

Section 1

This section sets out the definitions required for the interpretation of the revised Planning Act. It should be noted that two definitions are given for municipalities; "local municipality" and "municipality", the latter incorporating regional type municipalities. These are necessary to describe the types of planning functions which will be assigned to the various levels of municipalities.

A new definition for "official plan" has been made which implements conclusion 30 of the White Paper.

Section 1: Definitions

1. In this Act,

(a) "committee of adjustment" means a committee of adjustment constituted under section 44;

(b) "land division committee" means a land division committee constituted under section 57;

(c) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;

(d) "local municipality" means a city, town, village and township;

(e) "Minister" means the Minister of Housing;

(f) "Municipal Board" means the Ontario Municipal Board;

(g) "municipality" means a local municipality, a county and a regional, metropolitan or district municipality;

(h) "official plan" means a document approved by the Minister containing, among other matters, objectives and policies designed primarily to provide guidance for the physical development of a municipality or a part thereof or an area that is without municipal organization;

(i) "prescribed" means prescribed by the regulations;

(j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality;

(k) "regulations" means regulations made under this Act.

Section 2

This section implements conclusion 1 of the White Paper and establishes the range of matters which are of provincial interest. The section requires the Minister to take these matters into account in carrying out his responsibilities under this Act.

Section 3

This is a new provision which implements conclusion 2

Part I Provincial Administration

Section 2: Nature of Provincial Interest

2. The Minister, in taking into account provincial policies for the economic, social and physical development of the province in carrying out his responsibilities under this Act, will have regard to, among other matters,

(a) the provision of an adequate supply of land for all forms of development;

(b) the protection of the natural environment and the management of natural resources;

(c) the efficiency and amenity of communities;

(d) the protection of features of significant natural, architectural, historical, or archaeological interest;

(e) the efficient supply and use of energy;

(f) the provision of major communication, servicing and transportation facilities;

(g) the equitable distribution of educational, health and other social facilities;

(h) the co-ordination of planning activities of municipalities and other public bodies;

(i) the resolution of planning conflicts between municipalities and other public bodies; and

(j) the protection of the financial and economic well-being of the province and its municipalities.

Section 3: Policy Statements

3.-(1) The Minister may from time to time issue

in the White Paper. It allows the Minister either independently or jointly with other Ministers to issue policy statements or circulars and describes the effect of such statements.

For a more detailed explanation of the nature and scope of policy statements, see Appendices of this Report.

Section 4

This section essentially repeats the provisions of section 44b of the current Planning Act relating to the delegation of the Minister's authority to municipal councils. Subsection 3 has been added allowing the Minister to also delegate to a planning board in unorganized territory.

As explained in conclusion 3 of the White Paper, the present policy for delegation of Minister's powers will be broadened to include counties and cities located outside restructured upper-tier municipalities. The criteria for qualification to receive delegated authority, set out in conclusion 4 of the White Paper, are spelled out in more detail in Appendices of this Report.

policy statements on matters relating to municipal planning that in the opinion of the Minister are of provincial interest, and any other Minister of the Crown may, jointly with the Minister, issue such policy statements.

(2) Where a policy statement is issued under subsection 1 the Minister shall give notice or cause to be given notice thereof to such persons and in such manner as he considers appropriate.

(3) In exercising any authority that affects any planning matter, the council of every municipality, the Municipal Board, any Minister of the Crown, any ministry, board, commission or agency of the government and Ontario Hydro, shall have regard to policy statements issued under subsection 1.

Section 4: Delegation of Minister's Authority

4.-(1) The Minister on the request of the council of any municipality may by order delegate to the council any of the Minister's authority under this Act, under section 50 of The Condominium Act, 1978, under subsection 8 of section 443 and subsection 2 of section 450 of The Municipal Act, under subsection 4 of section 86 of The Registry Act and under section 163 of The Land Titles Act and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

(2) The Minister may by order delegate to a planning board of a planning area in a territorial district any of the Minister's authority under this Act and where the Minister has delegated any such authority the planning board has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the planning board shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

(3) A delegation made by the Minister under subsection 1 or 2 may be subject to such conditions as the Minister may by order provide.

(4) The Minister may by order withdraw any delegation made under subsection 1 or 2 and, without

Section 5

This section re-enacts the provisions of section 44c of the current Planning Act allowing a municipal council to further delegate some of the Minister's delegated authority to a committee of council or an appointed officer.

Section 6

This section implements conclusion 9 of the White Paper which requires provincial ministries and other public agencies to consult with municipalities and to

limiting the generality of the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation and immediately following any such withdrawal the council or the planning board, as the case may be, shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation or the planning board that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council or the planning board prior to such withdrawal.

Section 5: Further Delegation by Municipalities

5.-(1) Where the Minister has delegated any authority to a council under section 4, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans and amendments thereto, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer as the case may be has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

(2) A delegation made by a council under subsection 1 may be subject to such conditions as the council may by by-law provide and as are not in conflict with any conditions provided by order of the Minister under section 4.

(3) A council may by by-law withdraw any delegation made under subsection 1 and the provisions of subsection 4 of section 4 apply with the necessary modifications.

Section 6: Consultation on Public Works

6.-(1) In this section, "ministry" means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the

take account of municipal planning policies before carrying out any provincial undertaking that may affect a particular municipality.

Section 7

This new provision gives specific authority to the Minister to make grants for planning purposes.

Government and Ontario Hydro.

(2) A ministry before carrying out any undertaking that the ministry considers will directly affect any municipality, shall consult with, and take into account the established planning policies of, the municipality.

Section 7: Power to Make Grants

7. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants of money to any municipality or planning board in order to assist the municipality or board in performing any duty or function of a planning nature.

Section 8

This section implements conclusion 13 that provides for voluntary joint planning between 2 or more municipalities. The White Paper stated that the planning board would consist of only elected persons while subsection (2) provides that the majority of members shall be elected persons from the councils concerned, with a minimum one appointee for each council being an elected member of that council.

Ministerial approval for establishing a joint planning board is no longer needed. Subsection (4) only requires that a copy of the agreement be forwarded to the Minister for information purposes. The provisions for a "designated municipality" and "subsidiary planning area" no longer apply.

(See Appendices of this Report for an elaboration of how the revised provisions for joint planning will work).

Section 9

This section implements conclusion 25. It enables the Minister to still establish a joint planning board over an area that includes both municipalities and unorganized lands. Members for the unorganized portion are appointed by the Minister while members representing municipalities

Part II Local Planning Administration

Section 8: Planning Between Municipalities

8.-(1) Two or more municipalities, other than municipalities that are situate in a territorial district, or situate in a regional municipality or situate in The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford, may enter into agreement to define a planning area consisting of the whole of each of the municipalities and to establish a planning board for the planning area, which board shall be composed of such number of members as may be agreed upon.

(2) The council of each participating municipality shall appoint to the planning board the number of members to which it is entitled under the agreement and of the number of members appointed by each council, at least one shall be a member of the council, provided that a majority of the total number of members of the board shall be members of the councils of the participating municipalities and after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized.

(3) The members of the planning board shall hold office for the term of the council that appointed them and until their successors are appointed.

(4) An agreement entered into under subsection 1 shall set out the name of the planning area and the name of the planning board, and a copy of the agreement shall be forwarded to the Minister by the clerk of the participating municipality having the largest population.

Section 9: Joint Planning in Northern Ontario

9.-(1) The Minister may define and name a planning area consisting of the whole of two or more municipalities that are situate in a territorial district or consisting of the whole of one or more municipalities and territory without municipal organization.

are appointed by the councils concerned without reference to the Minister. In contrast to the White Paper, only one member from each municipality need be an elected member of that council.

Section 10

This new provision implements conclusion 24 and enables the Minister to establish a planning board and appoint members for lands without municipal organization.

Section 11

This section sets out administrative matters for planning boards established by municipalities for joint planning purposes or by the Minister in territory without municipal organization. No significant change has been made from the current legislation.

(2) Where a planning area is defined under subsection 1, the Minister shall establish the planning board for the planning area and specify the name of the board and the number of members to be appointed to it by the council of each municipality within the planning area and the number of members, if any, to be appointed by the Minister.

(3) The council of each municipality shall appoint to the planning board the number of members specified by the Minister under subsection 2, of which members at least one shall be a member of the council of the municipality and, after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized.

(4) The members,

(a) appointed by the council of each municipality shall hold office for the term of the council that appointed them; and

(b) appointed by the Minister shall hold office for the term specified by the Minister in their appointment,

and until their successors are appointed.

Section 10: Planning in Unorganized Territory

10. The Minister may define and name a planning area consisting of territory without municipal organization and may establish and name a planning board for the planning area and appoint the members thereof.

Section 11: Composition of Planning Boards

11.-(1) A planning board is a body corporate and a majority of its members constitutes a quorum.

(2) A planning board shall annually elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

(3) A planning board shall appoint a secretary-treasurer and may engage such employees and consultants as is considered appropriate.

Section 12

This section provides for the finances and estimates of planning boards. The Municipal Board still retains the power to decide upon the apportionment of costs where any municipality is not satisfied with the allocation by the planning board. No significant changes from current legislation.

(4) The execution of documents by a planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the board.

Section 12: Budgets of Planning Boards

12.-(1) A planning board established by the Minister for a planning area consisting of one municipality and territory without municipal organization shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time.

(2) In the case of a planning board established for a planning area consisting of two or more municipalities or consisting of two or more municipalities and territory without municipal organization, the planning board shall annually submit its estimates to the council of each of such municipalities together with a statement as to the proportion thereof to be chargeable to each municipality.

(3) If the estimates submitted under subsection 2 are approved, or are amended and approved, by the councils of municipalities representing more than one-half of the population of the planning area for which the board was established, the estimates are binding on all the municipalities.

(4) After the estimates have been approved as provided in subsection 3, the planning board shall so notify each municipality involved and shall notify each such municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection 2.

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection 4, notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Municipal Board.

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final.

Section 13

This section re-enacts section 10 of the current Act.

Section 14

Subsection (1) sets out the duty of a planning board to provide advice and assistance on planning matters upon the request of the participating municipalities, or the Minister if unorganized territory is involved.

Subsection (2) enables a planning board to prepare an official plan for any municipality that is a member of the planning board or for territory without municipal organization for which a planning board has been established. The preparation of the official plan shall be at the request of the council or, in unorganized territory, the Minister.

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection 4 or by the Municipal Board under subsection 6, as the case may be.

Section 13: Power of Municipalities to Make Grants

13. Any municipality within or partly within a planning area may make grants of money to the planning board of the planning area.

Section 14: Duties of Planning Boards

14.-(1) A planning board shall provide advice and assistance in respect of such planning matters affecting the planning area as are referred to the board,

(a) by the councils to which the board submits its estimates under section 12, or by any of such councils; or

(b) by the Minister, in the case of a planning board appointed for a planning area consisting solely or partially of territory without municipal organization.

(2) The planning board of a planning area defined by agreement under section 8 shall at the request of all the councils party to the agreement prepare a plan suitable for adoption as the official plan of the planning area or at the request of any of such councils prepare a plan suitable for adoption as the official plan of the municipality of which it is the council.

(3) The planning board of a planning area in a territorial district shall prepare a plan suitable for adoption as the official plan of the planning area.

Section 15

This implements conclusion 19 by establishing the planning authority of a county or other upper-tier municipality. The remaining items of conclusion 19 are not considered to need specific definition here in order for them to be effected.

Section 15: Planning Functions of Upper-Tier Municipalities

15. The council of a county or of a regional, metropolitan or district municipality on such terms and conditions as may be agreed upon with the council of a local municipality that for municipal purposes forms part of the county or that forms part of the regional, metropolitan or district municipality, as the case may be, may,

(a) assume any authority, responsibility, duty or function of a planning nature that the local municipality has under this or any other Act; or

(b) provide advice and assistance to the local municipality in respect of planning matters generally.

Section 16

This section implements part of conclusion 30 and conclusion 31 by providing for a general indication of the nature and scope of official plans, and indicating that the impact of social, economic and environmental matters must be considered in the preparation of such plans.

Section 17

Subsection (1) is based upon conclusion 11 and 12 in that a municipal council may prepare an official plan directly. No planning board or definition as a planning area is required for single municipalities to prepare such plans.

Subsections (2) to (19) are based upon the White Paper conclusions in chapter 12 (Public Involvement) and chapter 13 (The Ontario Municipal Board) plus the designation of provincial interests (conclusion 6). The provisions for notice, municipal meeting, adoption, approval, referral and disposition of the matter by the OMB are set out. The outline of what will be in the regulations mentioned in subsection (2) is contained in the Appendices.

Part III Official Plans

Section 16: Matters to be Addressed in Official Plan

16.-(1) In addition to the objectives and policies referred to in clause h of section 1, an official plan may contain such other particulars as are considered appropriate and without limiting the generality of the foregoing, may contain a description of,

(a) the measures proposed to attain the objectives;

(b) the procedures to be used in carrying out the measures;

(c) the measures for re-examining the official plan from time to time; and

(d) the measures for informing and securing the views of the public in respect of contemplated planning objectives and policies.

(2) In preparing and implementing an official plan, regard shall be had to such social, economic and environmental matters as appear to be relevant.

Section 17: Procedures for Preparation, Adoption, Approval of Plans

17.-(1) The council of a municipality may provide for the preparation of a plan suitable for adoption as the official plan of the municipality.

(2) The council, before adopting the plan,

(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where council will hold a meeting to consider the adoption of the plan which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and

(b) shall, in the manner and to the agencies and containing the information prescribed, give notice that council is considering the adoption of the plan.

(3) The meeting mentioned in clause a of subsection 2 shall be open to the public and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the adoption of the plan.

(4) An agency may, within thirty days of the giving of the notice mentioned in clause b of subsection 2 or within such further period of time as the council may subsequently allow, submit comments to the council on the adoption of the plan.

(5) After the meeting mentioned in clause a of subsection 2 has been held and after the time for submitting comments under subsection 4 has elapsed, the council when it is satisfied that the plan as finally prepared is suitable for adoption, may by by-law adopt the plan and submit it to the Minister for approval.

(6) When the plan is adopted the clerk of the municipality shall compile and forward to the Minister a record which shall include,

(a) a certified copy of the by-law adopting the plan;

(b) a list of the names and addresses of the persons and agencies notified under subsection 2;

(c) the original or a true copy of all written submissions and material in support of the submissions presented at the meeting mentioned in clause a of subsection 2 and of all comments received from agencies under subsection 4;

(d) a list of the names and addresses of the persons and agencies given notice of the adoption of the plan under subsection 7 and the date of the giving of the notice; and

(e) such other information or material as the Minister may require.

(7) Where the council adopts the plan, the clerk of the municipality shall, not later than seven days after the day the plan was adopted, give written notice of the adoption of the plan to every person who appeared at the meeting and who filed with the clerk a written request to be notified if the plan is

Subsection (10) is a change from the White Paper. The Minister has complete discretion on referring a plan or part of a plan to the Municipal Board except when the request is made (within 28 days of Ministerial submission) by agencies or individuals who received notice of the council's decision under subsection (7). In this case the Minister must refer the plan, or part of the plan to the Municipal Board unless in his opinion such referral would serve no useful purpose.

adopted and to every agency that submitted comments under subsection 4 and that in writing requested to be notified if the plan is adopted.

(8) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the plan and, subject to subsection 10 may then approve, or, after consultation with the council, refuse to approve the plan or, if modifications appear desirable to the Minister, he may, after consultation with the council, make the modifications to the plan and approve the plan as modified.

(9) The Minister, instead of approving the whole of the plan, may approve part only of the plan and may, from time to time, approve additional parts of the plan, provided that nothing herein derogates from the right of any person to request the Minister to refer any part of the plan to the Municipal Board under subsection 10.

(10) The Minister may refer the plan or any part of the plan to the Municipal Board and where the council or any person or agency to whom notice was given under subsection 7 requests the Minister, within twenty-eight days from the date the plan was adopted, to refer the plan or any part of the plan to the Municipal Board, the Minister shall refer the plan or such part to the Municipal Board, together with the statement mentioned in subsection 11 unless in his opinion, referral to the Municipal Board would serve no useful purpose or unless, in his opinion, the request is made only for the purpose of delay.

(11) Where a person submits a request to the Minister under subsection 10 he shall include therewith a statement in writing setting out the reasons for the request.

(12) The parties to a referral are the person or agency, if any, that requested the referral, the municipality and any person added as a party by the Municipal Board.

(13) The Municipal Board may, at any time before the commencement of the hearing on a referral, add as a party to the referral any person, including the Minister, who applies to the Board to be added as a party.

(14) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations but not to introduce evidence or cross examine witnesses at the hearing.

Section 18

This section provides for the preparation of an official plan or a joint official plan by a planning board where one has been established. A joint official plan may only be submitted to the Minister for approval after it has been adopted by a majority of the municipal councils concerned.

The requirement for a "designated municipality" to be defined in order to adopt and submit the plan has been discontinued.

(15) On a referral to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons as the Board considers appropriate.

(16) The Municipal Board may, on the basis of the statement mentioned in subsection 11, the record mentioned in subsection 6 and such other matters as the Board considers proper to take into account, establish the issues that are in dispute in a referral and where the Board does so a party to the referral may not, except with the leave of the Board, introduce at the hearing any evidence or present any argument that is not relevant to the issues in dispute as established by the Board.

(17) The Municipal Board may make any decision that the Minister could have made.

(18) Where the plan or any part of the plan is referred to the Municipal Board under subsection 10, the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be affected by the plan or the part thereof, may so advise the Municipal Board in writing at any time before the day fixed by the Board for the hearing of the referral.

(19) Where the Municipal Board receives notice from the Minister under subsection 18, the Board shall not proceed under subsection 17 but shall, following the hearing, make such recommendations to the Minister in respect of the referral as the Board considers appropriate, and the Minister shall make a final disposition of the plan or the part thereof.

Section 18: Preparation of Plan by Planning Board

18.-(1) Where a plan is prepared by a planning board the plan shall not be recommended to any council for adoption as an official plan unless it is approved by a vote of the majority of all the members of the planning board.

(2) When the plan is approved by the planning board, the board shall submit a copy thereof, certified by the secretary-treasurer of the board to be a true copy,

(a) in the case of a plan prepared for a planning area, to the council of each municipality that is within or partly within the planning area; and

Section 19

This new section concerns the preparation of an official plan by a planning board consisting wholly of unorganized territory.

(b) in the case of a plan prepared at the request of a single municipality, to the council of that municipality,

together with a recommendation that it be adopted by the council.

(3) Each council to which the plan is submitted may, subject to subsections 2 to 5 of section 17, by by-law adopt the plan and the clerk of each municipality the council of which adopted the plan shall provide the secretary-treasurer of the planning board with a certified copy of the adopting by-law.

(4) When the secretary-treasurer of the planning board has received a certified copy of an adopting by-law from a majority of the councils to which the plan was submitted he shall submit the plan to the Minister for approval together with each certified copy of the adopting by-law, and thereafter subsections 6 to 19 of section 17 apply.

Section 19: Preparation of Plan in Unorganized Territory

19. Before adopting a plan for a planning area consisting solely of territory without municipal organization, the planning board,

(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where the board will hold a meeting to consider the adoption of the plan which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and

(b) shall, in the manner and to the agencies and containing the information prescribed, give notice that the board is considering the adoption of the plan,

and thereafter subsections 3 to 19 of section 17 apply, with the necessary modifications, as though the planning board were the council of a municipality and the secretary-treasurer were the clerk of the municipality.

Section 20

This section deals with the lodging of an official plan once it is approved and is similar to the current section 16.

Section 21

This section implements paragraph 2 of conclusion 5 of the White Paper and provides for the speeding up of the process by allowing a waiving of the requirement for Ministerial approval of official plan amendments where no provincial interest is considered to be at stake.

Section 22

Subsections (1) and (2) essentially re-enact the current

Section 20: Lodging of Plan

20.-(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister and a duplicate original of the official plan shall be lodged in every land registry office of lands to which the plan applies.

(2) The lodging required by subsection 1 shall be carried out,

(a) in the case of an official plan that applies to only one municipality or part thereof by the clerk of the municipality; and

(b) in the case of an official plan, other than one mentioned in clause a, by the secretary-treasurer of the planning board.

(3) All copies and duplicate originals lodged under subsection 1 shall be available for public inspection during office hours.

Section 21: Amendments and Waiving of Approval

21.-(1) Except as hereinafter provided, the provisions of this Act with respect to an official plan apply, with the necessary modifications, to amendments thereto or the repeal thereof, provided that the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and the provisions of section 17 apply to any such amendment or repeal.

(2) Where the Minister is satisfied that there is not a matter of provincial interest adversely affected by an amendment to an official plan submitted to him for approval, he may, in writing, waive the requirement for approval thereof, whereupon the amendment shall be deemed to be approved.

Section 22: Referral Where Amendment is Required

22.-(1) Where any person requests a council to

section 17(3) but the planning board or municipality will in future have 60 days to consider the amendment, rather than 30. Subsection (3) provides that the Minister may confer on an amendment with public bodies and persons in the same manner as an official plan. Subsections (4) and (5) are based upon conclusion 6 of the White Paper.

Section 23

This section implements conclusion 8 of the White Paper,

initiate an amendment to an official plan, other than an official plan that applies in whole or in part to territory without municipal organization, and the council refuses to adopt the amendment or fails to adopt it within sixty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board.

(2) Where any person requests a planning board to initiate an amendment to an official plan that applies in whole or in part to territory without municipal organization and the planning board refuses to adopt the amendment or to recommend the amendment for adoption, as the case may be, or fails to adopt or recommend it within sixty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board.

(3) The Minister may confer on the proposed amendment in like manner as he is authorized to confer under subsection 8 of section 17 and he may refuse the request to refer the proposed amendment to the Municipal Board or may refer the proposed amendment to the Board.

(4) Where a proposed amendment is referred to the Municipal Board under subsection 3, the Minister if he is of the opinion that a matter of provincial interest is, or is likely to be affected by the proposed amendment may so advise the Municipal Board in writing at any time before the day fixed by the Board for the hearing of the referral and the Municipal Board shall hold a hearing and thereafter make such recommendation to the Minister in respect of the proposed amendment as the Board considers appropriate and the Minister may then reject the proposed amendment or direct that the council cause the amendment to be made in the manner prescribed by the Minister.

(5) Where a proposed amendment is referred to the Municipal Board under subsection 3 and the Minister has not advised the Municipal Board that a matter of provincial interest is, or is likely to be affected by the proposed amendment, the Municipal Board shall hold a hearing and thereafter reject the proposed amendment or direct that the council cause the amendment to be made in the manner provided in the order of the Board.

Section 23: Minister May Request Amendment to Official Plan

23.-(1) Where the Minister is of the opinion that

and allows the Minister to initiate an amendment to an official plan. The White Paper position has been elaborated to enable the Minister to request the OMB to hold a hearing on the matter.

Section 24

This section is essentially the same as section 19 of the present Act but has been revised so that now only general conformity of by-laws and public works to an official plan is required, as proposed in conclusion 32 of the White Paper. This is to enable more flexibility in the interpretation of plans.

a matter of provincial interest is or is likely to be adversely affected by an official plan the Minister may request the council of a municipality to adopt such amendment as the Minister specifies to an official plan and where the council refuses the request or fails to adopt the amendment within such time as is specified by the Minister in his request, the Minister may make the amendment.

(2) Where the Minister proposes to make an amendment to an official plan under subsection 1, the Minister may request the Municipal Board to hold a hearing on the proposed amendment and the Board shall thereupon hold a hearing as to whether the amendment should be made.

(3) Where the Minister has requested the Board to hold a hearing as provided for in subsection 2 notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

(4) At the conclusion of the hearing, the Board shall make a report to the Minister in which shall be set out the Board's findings and recommendations in respect of the proposed amendment and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter.

(5) After considering the report of the Board, the Minister may make such amendment, if any, as he considers appropriate.

Section 24: Conformity of By-Laws and Public Works

24.-(1) Notwithstanding any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections 2 and 4, no by-law shall be passed for any purpose that does not generally conform therewith.

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

(3) Notwithstanding subsections 1 and 2, the council of a municipality may take into considersation the

Section 25

This section is similar to the current section 21 concerning municipal acquisition of lands in accordance with an official plan.

Section 26

This new provision implements conclusion 33. It requires a

undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not generally conform with an official plan.

(4) Where a by-law is passed under section 34 by the council of a municipality in which an official plan is in effect and, within the time limited for appeal,

(a) no appeal is taken; or

(b) an appeal is taken and the appeal is dismissed or the by-law is amended as directed on the appeal,

the by-law shall be conclusively deemed to be in conformity with the official plan, except that where the by-law is passed in the circumstances mentioned in subsection 2 the by-law shall be conclusively deemed to be in conformity with the official plan on and from the day the by-law was passed, if the Minister approves the amendment to the official plan as mentioned in subsection 2.

Section 25: Acquisition of Lands in Accordance with Plan

25.-(1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

(2) Any municipality may contribute towards the cost of acquiring land under this section.

Section 26: Review of Plan

26.-(1) Where there is an official plan in effect

review of an official plan every 5 years and gives the Minister the power to request a review. This section might be used where a plan has become badly outdated.

Section 27

Subsection (1) implements conclusion 20 and part of 21 and provides that local official plans and zoning by-laws must be brought into general conformity with upper-tier plans.

Subsection (2) and (3) implement the remainder of conclusion 21 and permits an upper-tier municipality the reserve power to zone directly where a local municipality has failed to act within one year to bring its zoning into general conformity with an upper-tier plan.

It is to be noted, however, that such a by-law is to be deemed to be a lower-tier by-law and this will be administered by the lower-tier municipality.

in a municipality the council of the municipality shall cause the plan to be reviewed not later than five years from the date that it became effective and thereafter to be reviewed from time to time at intervals not exceeding five years each.

(2) Notwithstanding subsection 1 the Minister may, at any time, direct the council of a municipality to undertake a review of any official plan or part thereof in effect in the municipality and when so directed the municipal council shall cause the review to be undertaken without undue delay.

Section 27: Effect of Upper-Tier Plans

27.-(1) When the Minister has approved an official plan for a county or for a regional, metropolitan or district municipality,

(a) every official plan; and

(b) every zoning by-law passed under section 34 of this Act or a predecessor thereof,

that is then in effect in the area affected by the county, regional, metropolitan or district plan shall be amended to conform therewith.

(2) Where an official plan is approved as mentioned in subsection 1 and any zoning by-law is not amended as required by that subsection within one year of the approval of the plan, the council of the county or of the regional, metropolitan or district municipality may thereupon amend the zoning by-law.

(3) Where an amending by-law is passed under subsection 2 by the council of a county or the council of a regional, metropolitan or district municipality, the amending by-law shall be deemed for all purposes to be a by-law passed by the council of the municipality that passed the by-law that was amended.

Section 28

This section essentially re-enacts section 22 of the present Planning Act. Some changes have occurred which incorporate White Paper conclusion 55.

Throughout the section the word "redevelopment" is replaced by "community improvement".

Subsection (2) provides for the Minister's approval of the by-law designating a community improvement area and (3)(a) requires that the Minister's approval is necessary if land is acquired before the community improvement plan is approved. All other requirements under the present Act for the Minister's approval have now been deleted.

Part IV Community Improvement

Section 28: General Provisions

28.-(1) In this section,

(a) "community improvement" means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, reconstruction and rehabilitation, or any of them, of a community improvement area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;

(b) "community improvement area" means an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other reason;

(c) "community improvement plan" means a general scheme, including supporting maps and texts, approved by the Minister for the community improvement of a community improvement area.

(2) The council of a local municipality that has an official plan may, with the approval of the Minister, by by-law designate the whole or any part of an area covered by such an official plan as a community improvement area, and the community improvement area shall not be altered or dissolved without the approval of the Minister.

(3) When a by-law has been passed and approved under subsection 2, the municipality may,

(a) acquire land within the community improvement area with the approval of

Subsection (5) requires that a community improvement plan be subject to the same notification, hearing and appeal procedures as is proposed for official plans. (See Appendices).

the Minister if the land is acquired before the community improvement plan mentioned in subsection 5 is approved and without the approval of the Minister if the land is acquired after the community improvement plan is approved;

(b) hold land acquired before or after the passing of the by-law within the community improvement area; and

(c) clear, grade or otherwise prepare the land for community improvement.

(4) If, at any time before a community improvement plan for the community improvement area has been approved by the Minister, the Minister is not satisfied with the progress made by the municipality in acquiring land within the community improvement area or in preparing a community improvement plan, he may withdraw his approvals under subsections 2 and 3 and thereupon the by-law designating the community improvement area ceases to have effect and the community improvement area ceases to exist.

(5) When a by-law has been passed and approved under subsection 2, the council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement area and the provisions of subsections 2 to 19 of section 17 apply with the necessary modifications.

(6) The provisions of this section apply with the necessary modifications to an amendment to a community improvement plan.

(7) For the purpose of carrying out the community improvement plan, the municipality may,

(a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improvement area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

(b) sell, lease or otherwise dispose of any land acquired or held by it in the community improvement area to any person or governmental authority for use in conformity with the community improvement plan.

(8) For the purpose of carrying out the community improvement plan, the municipality may make

Section 29

This section broadens the provisions of section 23 of the current Planning Act, and implements the last part of conclusion 55 of the White Paper.

grants or loans to the registered owners or assessed owners of lands and buildings within the community improvement area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the community improvement plan.

(9) The provisions of subsections 2 and 3 of section 32 apply with the necessary modifications to any loan made under subsection 8 of this section.

(10) Until a by-law or amending by-law passed under section 34 after the adoption of the community improvement plan is in force in the community improvement area, no land acquired, and no building constructed, by the municipality in the community improvement area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of enters into a written agreement with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the community improvement plan until such a by-law or amending by-law is in force, but the municipality may, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the community improvement plan, for a term of not more than three years at any one time.

(11) An agreement entered into under subsection 10 may be registered against the land to which it applies and the municipality shall be entitled to enforce the provisions thereof against any party to the agreement and, subject to the provisions of The Registry Act and The Land Titles Act, against any and all subsequent owners or tenants of the land.

(12) Notwithstanding subsection 1 of section 288 of The Municipal Act, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides.

Section 29: Agreements on Community Improvements

29. A municipality, with the approval of the Minister, may enter into any agreement relating to community improvement with any governmental authority, or any agency thereof created by statute.

Section 30

This section re-enacts the provisions of section 24 of the current Planning Act.

Sections 31 and 32

Sections 31 and 32 re-enact sections 36 and 37 of the present Planning Act which deal with property standards by-laws of maintenance and occupancy.

Section 30: Agreements on Grants and Studies

30. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the community improvement of a community improvement area as defined in section 28, including the carrying out of studies for the purpose of selecting areas for community improvement.

Section 31: Property Standards By-laws

31.-(1) In this section,

(a) "committee" means a property standards committee established under this section;

(b) "occupant" means any person or persons over the age of eighteen years in possession of the property;

(c) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;

(d) "owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

(e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes,

mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore of hereafter erected, and includes vacant property;

(f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in a by-law passed under this section.

(2) Where there is no official plan in effect in a local municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement, containing provisions relating to property conditions.

(3) If,

(a) an official plan that includes provisions relating to property conditions is in effect in a local municipality; or

(b) the council of a local municipality has adopted a policy statement as mentioned in subsection 2,

the council of the municipality may pass a by-law,

(c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform to the standards;

(d) for requiring property that does not conform to the standards to be repaired and maintained to conform to the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

(4) When a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

(5) An officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of The Provincial Offences Act, 1979.

(6) If, after inspection, the officer is satisfied that, in some respect, the property does not conform to the standards prescribed in the by-law he shall serve or cause to be served by personal services upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the registry office, the land titles office and the sheriff's office to have any interest therein a notice containing particulars of the non-conformity and may, at the same time, provide all occupants with a copy of such notice.

(7) After affording any person served with a notice provided for by subsection 6 an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,

(a) the municipal address or the legal description of such property;

(b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and

(c) the final date for giving notice of appeal from the order.

(8) A notice or an order under subsection 6 or 7, when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

(9) If the officer is unable to effect service under subsection 6 or 7, he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

(10) An order under subsection 7 may be registered in the proper registry or land titles office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the date on which the order was served under subsection 7 and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper registry or land titles office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such number of ratepayers in the municipality, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

(12) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member to act as chairman pro tempore and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

(13) The members of the committee shall be paid such compensation as the council may provide.

(14) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of The Municipal Act applies with the necessary modifications to such documents.

(15) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection 17 shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

(16) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to

have been confirmed.

(17) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

(18) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection 17 may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

(a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;

(b) the appointment shall be served in the manner prescribed; and

(c) the judge on such appeal has the same powers and functions as the committee.

(19) The order, as deemed to have been confirmed pursuant to subsection 16, or as confirmed or modified by the committee pursuant to subsection 17 or, in the event of an appeal to the judge pursuant to subsection 18, as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

(20) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,

(a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(b) shall not be liable to compensate such owner, occupant or any other person

having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

(21) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection 3, and the council of a municipality may prescribe a fee payable for such a certificate, where it is issued at the request of the owner.

(22) An owner who fails to comply with an order that is final and binding under this section is guilty of an offence and on conviction is liable to a fine of not more than $500 for each day that the contravention has continued.

Section 32: Grants and Loans: Property Standards

32.-(1) When a by-law under section 31 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 6 of section 31 to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe.

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper registry or land titles office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate

Section 33

This section re-enacts section 37a of the present Planning Act.

signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

Section 33: Demolition Control

33.-(1) In this section,

(a) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

(b) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

(2) When a by-law under section 31 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section.

(3) Subject to subsection 6, where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within one month after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

(5) The person appealing to the Municipal Board under subsection 4 shall, in such manner and to such persons as the Municipal Board may direct,

give notice of the appeal to the Board.

(6) Subject to subsection 7, the council shall on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the resiential property sought to be demolished.

(7) A demolition permit under subsection 6 may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of $20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection 7, a certificate signed by the clerk setting out the amount of the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the role is discharged.

(9) Where an applicant for a demolition permit under subsection 6 is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

(10) Where any person who has obtained a demolition permit under subsection 6 that is subject to conditions under subsection 7 considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection 11 extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

(11) Where an application is made under subsection 10, the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

(12) Any person who has made application to the council under subsection 10, may appeal from the decision of the council to the Municipal Board within fourteen days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Board and the Municipal Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection 11 and the decision of the Board shall be final.

(13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection 2 is guilty of an offence and on conviction is liable to a fine of not more than $20,000 for each dwelling unit contained in the residential property the whole or any portion of which residential property has been demolished or to imprisonment for a term of not more than six months, or to both.

(14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition

control.

(15) Subject to subsection 14, an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 31 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection 4, until the Municipal Board has heard the appeal and issued its order thereon.

(16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in section 5 of The Building Code Act, 1974.

Section 34

Subsections (1) to (11) of this section permit municipalities to enact zoning by-laws and implements the long-term zoning controls proposed in conclusion 45 of the White Paper. The provisions are essentially the same as the operative provisions of section 35 of the current Planning Act with the exception that the new subsections (3) and (4) allow municipalities to zone for a class or classes of persons in accordance with a regulation prescribed by the Minister. These provisions implement the zoning proposal contained in conclusion 72 of the White Paper. Initially the regulation referred to in subsection (4) would include senior citizens and students.

Part V Land Use Controls and Related Administration

Section 34: Zoning By-laws

34.-(1) Zoning by-laws may be passed by the councils of local municipalities:

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

2. For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land where, by reason of its rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive.

4. For regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.

5. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway.

6. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof.

(2) The authority to regulate provided in paragraph 4 of subsection 1 includes and, notwithstanding the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law.

(3) Subject to subsection 4, the authority provided in paragraphs 1 and 2 of subsection 1 includes the power to prohibit the use of land, buildings or structures for, or except for, the purpose of occupancy by such persons or class or classes of persons as are set out in the by-law.

(4) The persons or class or classes of persons set out in a by-law passed under subsection 1 may be such only as are prescribed.

(5) Any by-law passed under this section may prohibit, regulate or require, as the case may be, all or any of the matters mentioned in subsection 1.

(6) A by-law heretofore or hereafter passed under paragraph 1 or 2 of subsection 1 or a predecessor of such paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be.

(7) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law.

(8) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

(9) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of

Subsections (12) to (15) implement conclusion 49 of the White Paper and permit municipalities to zone land or buildings for temporary uses for periods of up to three years.

such land for other land within the municipality.

(10) No by-law passed under this section applies,

(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or

(b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure the plans for which have, prior to the day of the passing of the by-law, been approved by the municipal architect or building inspector, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the erection of such building or structure is commenced within two years after the day of the passing of the by-law and such building or structure is completed within a reasonable time after the erection thereof is commenced.

(11) Notwithstanding any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed.

(12) The council of a municipality may, subject to subsections 13, 14 and 15, by by-law permit the temporary use of land, buildings or structures for any purpose that is otherwise prohibited by any other by-law passed under this section.

(13) A by-law passed under subsection 12 shall define the area to which it applies and prescribe the period of time for which the by-law shall be in effect, which shall not exceed three years from the day of the passing of the by-law.

(14) Notwithstanding subsection 13, the council of the municipality may grant further periods of not more than three years each during which the temporary use is permitted.

(15) When a by-law passed under subsection 12 ceases to have effect, clause a of subsection 10 does not apply in respect of the use of land, buildings or structures permitted by such by-law.

Subsection (16) re-enacts the provisions of section 35(22) of the current Act which provides for an appeal to the OMB when a council refuses or neglects to make a decision on a zoning by-law amendment application. The council is given sixty days in which to consider the application.

Subsection (17) implements conclusions 60 and 61 of the White Paper as they relate to notification and consultation procedures for zoning by-laws. The sub-section provides for the issuance of regulations by the Minister.

Subsection (18) implements conclusion 62 of the White Paper relating to municipal meetings on zoning by-laws.

Subsection (19) implements the part of conclusion 61 of the White Paper which requires consulted agencies to respond within a specified time period.

Subsection (20) implements that part of conclusion 62 of the White Paper relating to the keeping of a record of the municipal meeting. Note that no record of the minutes of the public meeting provided for in subsection (17), is required. Such a record undoubtedly will be kept by most municipalities but it will not be required and, therefore, will not need to be submitted to the Municipal Board in the event of an appeal under sub-section (22).

(16) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision thereon within sixty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.

(17) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection 16, the council,

(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where council will hold a meeting to consider the passing of the by-law, which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and

(b) shall, in the manner and to the agencies and containing the information prescribed, give notice that council is considering passing the by-law.

(18) The meeting mentioned in clause a of subsection 17 shall be open to the public and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the passing of the by-law.

(19) An agency may, within thirty days of the giving of the notice mentioned in clause b of subsection 17 or within such further period of time as the council may subsequently allow, submit comments on the proposed by-law to the council.

(20) Where the council passes the by-law, the clerk of the municipality shall compile a record which shall include,

(a) a copy of the by-law certified by him;

(b) a list of the names and addresses of the persons and agencies notified under subsection 17;

(c) the original or a true copy of all written submissions and material in support of the submissions presented at the meeting mentioned in clause a of subsection 17 and of all comments received from agencies under subsection 19; and

Subsection (21) implements that part of conclusion 63 relating to the sending of a notice of the municipal council decision.

Subsection (22) implements that part of conclusion 63 which establishes a right to appeal to the Ontario Municipal Board and that part of conclusion 66 which requires that the grounds of appeal must be stated in writing.

Subsection (23), which is a new provision not contained in the White Paper, permits any person who was originally notified of a council's intent to consider a by-law, but who had not attended the municipal meeting and registered with the clerk, to apply to the Municipal Board to obtain full appellant status. This is designed to provide relief in those situations where individuals, for some bona fide reason, were not able to attend the public meeting.

Subsection (24) is a new provision not addressed in the White Paper establishing the date on which zoning by-laws come into force in the case where no appeal is made. However, in the situation where a concurrent amendment to an official plan is required the coming into force does not take effect until the amendment is approved by the Minister.

Subsection (25) provides for the issuance of a certificate stating that notice requirements have been met in cases where no appeal has been filed on a zoning by-law.

Subsection (26) implements that part of conclusion 63 which requires the clerk to send specific information to the OMB once an appeal has been made.

Subsection (27) establishes the parties to an appeal.

Subsections (28) and (29) implement that part of conclusion 66 which allows any person who has not obtained appellant status to make representations at a Board hearing but not to introduce evidence or cross examine witnesses.

(d) a list of the names and addresses of the persons and agencies given notice under subsection 21 of the passing of the by-law.

(21) Where the council passes the by-law, the clerk of the municipality shall, not later than seven days after the day the by-law was passed, give written notice of the passing of the by-law to every person who appeared at the meeting and who filed with the clerk a written request to be notified if the by-law is passed and to every agency that submitted comments under subsection 19 and that in writing requested to be notified if the by-law is passed.

(22) Any person or agency to whom notice of the passing of the by-law was given under subsection 21 may, within twenty-eight days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(23) The Municipal Board may, on the application of any person who received or was entitled to receive notice under subsection 17, grant that person leave to appeal to the Board in the same manner and within the same period of time as is set out in subsection 22.

(24) When a notice of appeal is filed under subsection 22 or 23 the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 2 of section 24 the by-law shall not be deemed to have come into force on the day it was passed until the Minister has approved the amendment to the official plan as mentioned in subsection 2 of section 24.

(25) A certificate of the clerk of the municipality that notice was given as required by subsections 17 and 21 or that no notice of appeal was filed under subsection 22 or 23 within the time allowed for appeal shall be conclusive evidence of the facts stated therein.

(26) The clerk of the municipality, upon receipt of a notice of appeal under subsection 22 or 23, shall forward the notice of appeal together with the record mentioned in subsection 20 to the secretary of the Municipal Board.

(27) The parties to an appeal are the appellant, the municipality and any person added as a party by the Municipal Board.

(28) The Municipal Board may, at any time before the commencement of the hearing on an appeal, add as a party to the appeal any person who applies to the Board to be added as a party.

Subsection (30) requires the Board to hold a hearing and notify the parties to the appeal.

Subsection (31) implements that part of conclusion 67 which allows the Board to dismiss an appeal without holding a hearing.

Subsection (32) implements conclusion 67 in the White Paper and allows the OMB to establish the particular matters that are at issue in an appeal and to limit the hearing to a discussion of these issues, rather than to a wider-ranging debate of all of the merits or otherwise of the proposal itself.

Subsection (33) establishes the powers of the OMB on appeal.

Subsection (34) provides that a decision of the OMB is not subject to the notification and appeal provisions of this section.

Subsections (35) and (36) are new provisions not mentioned in the White Paper which give the Minister the power to designate a by-law appealed to the Board as being of provincial interest. This is similar to the Minister's referral of an official plan or other matter to the Board, which is proposed in conclusion 6 of the White Paper.

(29) Despite the fact that a person is not a party to the appeal, the Municipal Board may permit the person to make representations but not to introduce evidence or cross examine witnesses at the hearing.

(30) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the parties to the appeal, and to such other persons as the Board considers appropriate.

(31) Despite subsection 30, the Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a hearing, and where the Board does so it shall give written reasons therefor to the appellant.

(32) The Municipal Board may, on the basis of the contents of the notice of appeal, the record that accompanied the notice and such other matters as the Board considers proper to take into account, establish the issues that are in dispute in an appeal and where the Board does so a party to the appeal may not, except with the leave of the Board, introduce at the hearing any evidence or present any argument that is not relevant to the issues in dispute as established by the Board.

(33) The Municipal Board may,

(a) dismiss the appeal; or

(b) allow the appeal in whole or in part and direct the council of the municipality to repeal the by-law or to amend the by-law in accordance with the Board's order.

(34) Subsections 17 to 32 do not apply to a by-law passed pursuant to an order of the Municipal Board made under subsection 16 or 33.

(35) Where an appeal has been filed under subsection 22 or 23, the Minister if he is of the opinion that a matter of provincial interest is or is likely to be adversely affected by the by-law may so advise the Municipal Board in writing at any time before the day fixed by the Municipal Board for the hearing mentioned in subsection 30.

(36) Where the Municipal Board receives notice from the Minister under subsection 35, the Board shall not make an order under subsection 33 but shall, following the hearing, make such recommendations to the Minister in respect of the appeal of the Minister and of any other appeal made under subsection 22 or 23 as the Board considers appropriate, and the Minister shall

Section 35

This new provision implements conclusion 46 of the White Paper relating to the passing of holding by-laws for the purpose of controlling the phasing of development.

Section 36

This section implements conclusion 47 of the White Paper relating to bonus zoning provisions. Such zoning provisions may only be used where the official plan sets out the objectives to be attained.

make a final disposition of all issues in dispute and in doing so may direct the council of the municipality to repeal or amend the by-law and subsections 17 to 32 do not apply to a by-law passed pursuant to any such direction of the Minister.

Section 35: Holding Provisions

35.-(1) The council of a municipality may, in a by-law passed under section 34, by the use of the holding prefix "H" preceding any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding prefix "H" is removed by amendment to the by-law.

(2) A by-law shall not contain the provisions mentioned in subsection 1 unless the municipality has an official plan that contains provisions relating to the use of the holding prefix "H" mentioned in subsection 1.

(3) Where an application to the council for an amendment to the by-law to remove the holding prefix "H" is refused or the council refuses or neglects to make a decison thereon within sixty days after receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.

(4) Subsections 17 to 32 of section 34 do not apply to an amending by-law passed by the council to remove the holding prefix "H".

Section 36: Bonus By-laws

36.-(1) The council of a municipality may, in a by-law passed under section 34, authorize increases in the density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.

(2) A by-law may not be passed containing the provisions mentioned in subsection 1 unless the municipality has an official plan that contains provisions relating to the authorization of increases in density of development.

Section 37

This new provision implements conclusion 48 in the White Paper and allows municipalities to pass by-laws to control development on an interim basis under certain circumstances. No notice or municipal meeting is required prior to passing the by-law. But once the by-law is passed, affected persons and agencies must be notified within 30 days and they may appeal to the OMB within 60 days of the passing of the by-law.

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

(4) Any agreement entered into under subsection 3 may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.

Section 37: Interim Control By-laws

37.-(1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed two years from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law.

(2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed three years from the date of the passing of the interim control by-law.

(3) No notice or hearing is required prior to the passing of a by-law under subsection 1 or 2 but the council shall, in the manner and to the person and agencies and containing the information prescribed, give notice of the by-law within thirty days of the passing thereof.

(4) Any person or agency to whom notice of the by-law was given under subsection 3 may, within sixty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(5) The clerk of the municipality shall compile a record which shall consist of a copy of the by-law certified by him and a list of the names and addresses

Section 38

This section transfers the sign control legislation currently contained in section 354 of The Municipal Act to the Planning Act. (Conclusion 57 of the White Paper)

of the persons and agencies given notice under subsection 3.

(6) Where a notice of appeal is filed under subsection 4, the provisions of subsections 26 to 36 of section 34 apply with the necessary modifications.

(7) Where the period of time during which an interim control by-law is in effect has expired and the council has not passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, or where an interim control by-law is repealed or the extent of the area covered thereby is reduced the provisions of any by-law passed under section 34 that applied immediately prior to the coming into force of the interim control by-law again come into force and have effect in respect of all lands, buildings or structures formerly subject to the interim control by-law.

(8) Where an interim control by-law ceases to be in effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied.

Section 38: Sign By-Laws

38.-(1) By-laws may be passed by the councils of local municipalities for prohibiting or regulating signs and other advertising devices and the posing of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this subsection may provide that a sign or other advertising device that was lawfully erected or displayed on the day the by-law comes into force but that does not comply with the by-law, shall be,

(a) made to comply with the by-law; or

(b) removed by the owner thereof or by the owner of the land on which it is situate,

on or before the expiration of five years from the day the by-law comes into force.

(2) A by-law passed under subsection 1 may define a class or classes of signs or other advertising devices and may specify a time period during which signs or other advertising devices in a defined class may stand or be displayed in the municipality and may

Section 39

This section re-enacts the provisions of section 35a of the current Act relating to site plan control by-laws as contained in The Planning Act Amendment, 1979. (Bill 96, June 22, 1979)

require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

(3) A by-law passed under subsection 1 may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

(4) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration so as to require a permit.

(5) A by-law passed under subsection 1 may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,

(a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or

(b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies.

Section 39: Site Plan Control By-Laws

39.-(1) In this section, "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or

usability thereof, or the laying out and establishment of a commercial parking lot.

(2) Where there is an official plan in effect in a local municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council.

(3) A by-law passed under subsection 2 may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34.

(4) No person shall undertake any development in an area designated under subsection 2 unless the council of the municipality or, where a referral has been made under subsection 9, the Municipal Board has approved one or both, as the council may determine, of the following:

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause a of subsection 6.

2. Drawings showing plan, elevation and cross-section views for each industrial and commercial building to be erected and for each residential building containing twenty-five or more dwelling units to be erected which are sufficient to display,

   (a) the massing and conceptual design of the proposed building;

   (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and

   (c) the provision of interior walkways, stairs and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

   but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause

c, the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

(5) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

(6) As a condition to the approval of the plans and drawings referred to in subsection 4, a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widenings of highways that abut on the land.

2. Subject to The Public Transportation and Highway Improvement Act, facilities to provide access to and from the land such as access ramps and curbings and traffic direction signs.

3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.

4. Walkways, including the surfacing thereof, and all other means of pedestrian access.

5. Facilities for the lighting, including floodlighting, of the land or of any building structures thereon.

6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.

7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.

8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewage facilities on the land.

9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause a, including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with any or all of the facilities, works or matters mentioned in clause a or with the provision and approval of the plans and drawings referred to in subsection 4.

(7) Any agreement entered into under clause c of subsection 6 may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.

(8) Section 469 of The Municipal Act applies to any requirements made under clauses a and b of subsection 6 and to any requirements made under an agreement entered into under clause c of subsection 6.

(9) Where the municipality fails to approve the plans or drawings referred to in subsection 4 within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection 6 or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

(10) Where the council of a municipality has designated a site plan control area under this section the council may, by by-law,

Section 40

This section essentially re-enacts the provisions of the current section 35b of The Planning Act relating to parkland dedication.

(a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection 4; and

(b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause a.

(11) Section 35a of The Planning Act, as it existed on the 21st day of June, 1979, shall be deemed to continue in force in respect of any by-law passed under that section on or before that day.

(12) Every agreement entered into by a municipality after the 16th day of December, 1973 and before the 22nd day of June, 1979, to the extent that the agreement deals with facilities and matters mentioned in subsection 2 of section 35a of The Planning Act as it existed on the 21st day of June, 1979, is hereby declared to be valid and binding.

Section 40: Parkland Dedication

40.-(1) As a condition of development or redevelopment of land for residential purposes, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding 5 per cent of the land proposed for development or redevelopment be conveyed to the municipality for park or other public recreational purposes.

(2) For the purposes of subsection 3, "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals.

(3) Subject to subsection 4, as an alternative to requiring the conveyance provided for in subsection 1, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law.

Subsection (6) adds a new provision relating to the date at which the amount of cash-in-lieu of parkland is to be determined. This implements conclusion 76 of the White Paper.

Section 41

This new section implements White Paper conclusion 75 which enables municipalities to zone land required for public purposes for a period of up to 3 years on condition that the municipality pay to the owner an amount of money equal to ten per cent of the value of the land. It also establishes that alternative non-public uses come into effect if the land is not acquired for public purposes.

(4) The alternative requirement authorized by subsection 3 may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes, which provisions have been approved by the Minister on or after the 18th day of December, 1973.

(5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time.

(6) The council of a municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of such conveyance and for the purpose of determining the amount of the payment the value of the land shall be determined as of the day of the issuance of the building permit in respect of the development or where more than one building permit is required for the development, as of the day of the issuance of the first permit and the provisions of subsection 12 of section 52 apply with the necessary modifications to all moneys so received.

(7) A by-law passed under this section is not applicable to land that is within a plan of subdivision approved under section 52 if land in the plan was conveyed to the municipality for park or other public purposes pursuant to a condition imposed by the Minister or a payment in lieu of such conveyance was received by the municipality.

Section 41: Land Reserved for Public Purposes

41.-(1) Where an owner of land receives draft approval of a plan of subdivision under section 52 or where a by-law passed under section 34 is amended on the request of an owner of land, the council of the municipality may, in a by-law passed under section 34, prohibit the use of any portion of the land except for such public purpose as is specified in the by-law, provided the by-law authorizes one or more alternative uses that are not uses for a public purpose to which such portion may be put if it is not acquired for the public purpose within such period of time not exceeding three years from the date of the passing of the by-law as the by-law specifies.

(2) Where the municipality or local board acquires the land zoned for a public purpose, notwithstanding the provisions of any other Act, it is entitled to

Section 42

This section implements conclusion 52 of the White Paper and allows municipalities to pass by-laws for the amortization of non-conforming uses of land.

It should be stressed that the section does not provide for the amortization of non-conforming buildings, and would only be used for such uses as automobile wrecking yards or industrial storage operations where the buildings are minor and clearly are of an ancillary nature.

Also, it should be noted that while the White Paper provides a maximum period of five years for amortization, this has been significantly changed so that is now a minimum of five years. The municipality will be able to determine the maximum period to suit the specific site conditions.

Section 43

This section re-enacts the provisions of section 45a of the current Planning Act relating to the metric conversion of zoning by-laws.

acquire the land at its value determined as of the day before the day of the draft approval of the plan of subdivision or as of the day before the day of the passing of the by-law, as the case may be.

(3) Where a by-law that contains the provisions mentioned in subsection 1 is passed, the municipality or a local board thereof shall tender to the owner of the land a sum of money that in the opinion of the municipality or local board is equal to 10 cer cent of the value of the land zoned for the public purpose and, unless the tender of money is made within sixty days of the date of the passing of the by-law, the provisions of the by-law authorizing the alternative use or uses thereupon come into effect.

(4) Where the owner is not satisfied that the sum of money tendered is equal to 10 per cent of the value of the land he may apply to the Land Compensation Board for the determination of the value of the land and the Board shall, in accordance as nearly as may be with the provisions of The Expropriations Act, determine the value of the land, which value shall be the value at which the municipality is entitled to acquire the land under subsection 2.

(5) Any moneys received by the owner under subsection 3 belong to the owner from the date of payment but where the municipality or local board acquires the land within the period of time specified in the by-law the moneys shall be credited towards the purchase price of the land.

Section 42: Amortization By-Laws

42.-(1) Despite subsection 10 of section 34, where land is being lawfully used for a purpose that is prohibited under any by-law passed under section 34, the council of the municipality may pass a by-law requiring the cessation of that use of the land within the period of time set out in the by-law, which period shall be not less than five years.

(2) Subsections 17 to 36 of section 34 apply to a by-law passed under this section.

Section 43: Metric Conversion

43.-(1) Subsections 17 to 36 of section 34 do not apply to a by-law that amends a by-law only to express

Section 44

This section sets out procedures for committees of adjustment where they are established. It is essentially the same as section 41 of the current Act with the exception that no restrictions are placed on membership. Council members and employees may therefore be appointed if council so decides.

a word, term or measurement in the by-law in a unit of measurement set out in Schedule 1 of the Weights and Measures Act (Canada) in accordance with the definitions set out in Schedule II of that Act and that,

(a) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or

(b) does not vary by more than 5 per cent any measurement so expressed.

(2) Any land, building or structure that otherwise conforms with a by-law passed under section 34 or a predecessor thereof or an order made by the Minister under section 47 or a predecessor thereof does not cease to conform with the by-law or order by reason only of an amendment to the by-law or order that conforms with subsection 1.

Section 44: Appointment of Committee of Adjustment

44.-(1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable.

(2) Where a by-law is passed under subsection 1, a certified copy of the by-law shall be sent to the Minister by registered mail by the clerk of the municipality within thirty days of the passing thereof.

(3) The members of the committee who are not members of a municipal council shall hold office for a term of three years, except that on the first appointment the council shall designate members who shall hold office,

(a) until the 1st day of January of the year following the date of appointment;

(b) until the 1st day of January of the second year following the date of appointment; and

(c) until the 1st day of January of the third year following the date of appointment,

Section 45

This section essentially re-enacts those parts of section 42 of the current Act relating to the granting of zoning variances and extensions or changes to non-conforming uses. In subsection (2) it has been made clear that more than one enlargement or extension to a non-conforming use or structure may be granted.

respectively, so that as nearly as possible one-third of the members shall retire each year and the members of the committee who are members of a municipal council shall be appointed annually.

(4) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term.

(5) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum.

(6) Subject to subsection 5, a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

(7) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member to act as chairman pro tempore.

(8) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the moneys appropriated for the purpose.

(9) The members of the committee shall be paid such compensation as the council may provide.

(10) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of The Municipal Act applies with the necessary modifications, to such documents.

(11) In addition to complying with the requirements of this Act, the committee shall comply with such rules of procedure as are prescribed.

Section 45: Powers of Committee of Adjustment

45.-(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that implements an official plan or is passed under section 34, 37 or 38, or a predecessor of such sections, or any person

authorized in writing by the owner, may, notwithstanding any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

(2) In addition to its powers under subsection 1, the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, provided that the use for a purpose prohibited by the by-law continued until the date of the application to the committee and provided that the land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day the by-law was passed, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was paased or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee and provided that the land, building or structure continues to be used in the same manner and for the same purpose as is authorized by the decision of the committee; or

(b) where the uses of land, building or structures permitted in the by-law are defined in general terms, may permit the use of any land, building

or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

(3) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.

(4) The committee, before hearing an application, shall in the manner and to the persons and agencies and containing the information prescribed, give notice of the application.

(5) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.

(6) The chairman, or in his absence the acting chairman, may administer oaths.

(7) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

(8) Any authority or permission granted by the committee under subsections 1 and 2 may be for such time and subject to such terms and conditions as the committee considers advisable and as are set out in the decision.

(9) The secretary-treasurer shall not later than seven days of the making of the decision send by mail one copy of the decision, certified by him,

(a) to the Minister if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;

(b) to the applicant; and

(c) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

(10) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection 9, he shall also send to the Minister such other information and material as may be prescribed.

Subsection (15) allows the OMB to dismiss an appeal without holding a hearing when it considers that the grounds for appeal are insufficient. This is in place of the leave to appeal provision proposed in conclusion 69 of the White Paper.

(11) The applicant, the Minister or any other person who has an interest in the matter may within twenty-eight days of the making of the decision appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under The Ontario Municipal Board Act as payable on an appeal from a committee of adjustment to the Board.

(12) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection 11 shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection 11 to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Municipal Board.

(13) If within such twenty-eight days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality.

(14) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine.

(15) Despite subsection 14, the Municipal Board may, where it is of the opinion that the objection to the decision set out in the notice of appeal is insufficient, dismiss the appeal without holding a hearing, and where the Board does so it shall give written reasons therefor to the appellant.

(16) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.

(17) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

(18) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.

Section 46

This section re-enacts the provisions of section 35c of the current Planning Act relating to mobile homes.

Section 47

This section essentially re-enacts the provisions of section 32 of the current Planning Act which gives the Minister powers of zoning and subdivision control.

Section 46: Mobile Home Provisions

46.-(1) In this section,

(a) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

(b) "parcel of land" means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause b of subsection 3 or clause a of subsection 5 of section 50

(2) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause a of subsection 1 of section 47, no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land as defined in clause b of subsection 1 of this section, and in no case except as otherwise so authorized shall any person erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land.

(3) This section does not apply to prevent the continued use in the same location of any mobile home that,

(a) was erected or located and in use prior to the 1st day of June, 1977; or

(b) was erected or located in accordance with a building permit issued prior to the 1st day of June, 1977.

Section 47: Power of Minister: Zoning, Subdivision Control

47.-(1) The Minister may by order,

(a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, but subsections 17 to 36 of that section do not apply to the exercise of such powers; and

(b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 4 of section 50.

(2) Where an order has been made under clause a of subsection 1, the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 1 and 2 of section 45 in respect of a by-law passed under section 34, but the provisions of subsections 3 to 18 of section 45 do not apply to the exercise by the Minister of such powers.

(3) In the event of a conflict between an order made under clause a of subsection 1 and a by-law that is in effect under section 34 or 37, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect.

(4) Where the Minister so provides in the order, an order made under clause a of subsection 1 in respect of land situate in a municipality the council of which has the powers conferred by section 34 shall be deemed for all purposes except the purposes of section 24 to be a by-law passed by the council of the municipality in which the land is situate and to be in force in the municipality.

(5) No notice or hearing is required prior to the making of an order under subsection 1 but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections 8, 9 and 10.

(6) The Minister shall cause a duplicate or certified copy of an order made under clause a of subsection 1,

(a) where the land affected is situate in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more local municipalities, in the office of the clerk of each of such municipalities and the provisions of subsection 2 of section 216 of The Municipal Act apply with the necessary modifications; and

(b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production.

(7) The Minister shall cause a certified copy or duplicate of an order made under clause b of subsection 1 to be registered in the proper land registry office.

(8) The Minister may, on his own initiative or at the request of any person, by order amend or revoke in whole or in part any order made under subsection 1.

(9) Except as provided in subsection 10, the Minister before amending or revoking in whole or in part an order made under subsection 1 shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof.

(10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection 1, the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part.

(11) Notwithstanding subsection 10, where the Minister is of the opinion that a hearing by the Municipal Board would serve no useful purpose or that the request is made only for the purpose of delay, he may refuse a request.

(12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection 10 notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board.

(13) At the conclusion of the hearing, the Municipal Board shall make a report to the Minister in which shall be set out the Board's findings and recommendations in respect of the application and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter.

(14) After considering the report of the Municipal Board, the Minsiter may either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the decision of the Minister is final.

(15) An order of the Minister made under clause b of subsection 1 has the same effect as a by-law passed under subsection 4 of section 50.

Section 48

This is a new section not addressed in the White Paper. It is intended to correct a problem relating to the issuance of licenses, permits and other approvals when the proposed use would be in contravention of the mobile home provisions or a Minister's zoning order.

Section 49

This section implements the last part of conclusion 56 of the White Paper and provides for a right-of-entry to enforce zoning by-laws but provides that a search warrant must first be obtained from the courts.

Section 48: Restrictions: Mobile Homes, Minister's Orders

48. A licence, permit, approval or permission shall not be issued or granted in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 46 or of an order made under section 47.

Section 49: Right of Entry

49.-(1) In this section, "officer" means an officer who has been assigned the responsibility of enforcing section 46, orders of the Minister made under clause a of subsection 1 of section 47 or zoning by-laws passed under section 34.

(2) Where an officer believes on reasonable grounds that section 46, an order of the Minister made under clause a of subsection 1 of section 47 or a by-law passed under section 34, 37 or 38 is being contravened the officer or any person acting under his instructions may, at all reasonable times and upon producing proper identification enter and inspect any property on or in respect of which he believes the contravention is occurring.

(3) An officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of The Provincial Offences Act, 1979.

Section 50

This section sets out the conditions under which land may be conveyed. It also makes provision for the deeming of plans of subdivision not to be registered and for part-lot control.

It essentially re-enacts the provisions of section 29 of the present Planning Act.

Part VI Subdivison of Land

Section 50: Subdivision Control

50.-(1) In this section and in section 54 "consent" means,

(a) where the land is situate within a regional municipality or is situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford, a consent given by the regional council, the Metropolitan Council, the District Council or the County Council, as the case may be;

(b) where the land is situate within a town, village or township that forms part of a county, for municipal purposes, a consent given by the council of the county;

(c) where the land is situate within a local municipality that is within a county, but that does not form part of the county for municipal purposes, a consent given by the council of the local municipality;

(d) where the land is situate within a city that is within a territorial district, other than a city within a regional or district municipality, a consent given by the council of the city; or

(e) where the land is situate in a territorial district but is not within a regional or district municipality or is not within a city, a consent given by the Minister.

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only.

Subsections (4) and (18)-(22) re-enact the existing Planning Act provisions which set out the procedures for deeming a plan of subdivision not to be registered.

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(a) the land is described in accordance with and is within a registered plan of subdivision; or

(b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to, any land abutting the land that is being conveyed or otherwise dealt with; or

(c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality, metropolitan municipality, regional municipality, district municipality or county; or

(d) the land or any use of or right therein is being acquired for the construction of a transmission line as defined in The Ontario Energy Board Act and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conslusive evidence that it is being acquired for such purpose; or

(e) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land.

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not be to a registered plan of subdivision for the purposes of subsection 3.

Subsections (5) and (6) provide for part-lot control.

It should be noted that conclusion 43 of the White Paper has not been implemented. Universal part-lot control, therefore, will remain in force.

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(a) the grantor by deed or transer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to, any land abutting the land that is being conveyed or otherwise dealt with; or

(b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality, metropolitan municipality, regional municipality, district municipality or county; or

(c) the land or any use of or right therein is being acquired for the construction of a transmission line or utility line, both as defined in The Ontario Energy Board Act, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;

(d) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land.

(6) Notwithstanding subsection 5, the council of a local municipality may by by-law provide that subsection 5 does not apply to land that is within such registered plan or plans of subdivision or part

or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection 5 ceases to apply to such land, provided that the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection 20 have been complied with, subsection 5 thereupon applies to the lands affected by the repeal or amendment.

(7) Nothing in subsections 3 and 5 prohibits, and subsections 3 and 5 shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance.

(8) Where a parcel of land is conveyed by way of a deed or transfer with consent given under section 54, subsections 3 and 5 of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection 3 or subsection 5 shall apply to any such subsequent conveyance or transaction.

(9) Where the council or the Minister stipulates in accordance with subsection 8, the certificate provided for under subsection 21 of section 54 shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation.

(10) Where land is within a registered plan of subdivision or within a registered description under The Condominium Act or where land is conveyed with a consent given under this section or a predecessor thereof, any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause b of subsection 1 of section 27, as it existed on the 25th day of June, 1970, of The Planning Act, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgement or order of any court given or made on or before

the 15th day of December, 1978.

(11) Where a person conveys land or grants, assigns or exercises a power of appointment with respect to land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections 3 and 5 to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment with respect to, land abutting the land that is being conveyed or otherwise dealt with.

(12) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation.

(13) Subsection 12 does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

(a) is the same land in respect of which a consent to convey has previously been given; or

(b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection 4; or

(c) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario, Ontario Hydro or by any municipality, metropolitan municipality, regional municipality, district municipality or county.

(14) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless

all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

(a) the whole of one or more lots or blocks within one or more registered plans of subdivision; or

(b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge.

(15) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections 3 and 5, to convey such land by way of deed or transfer and to retain the fee in the abutting land.

(16) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer.

(17) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with.

(18) A certified copy or duplicate of every by-law passed under subsection 4 shall be lodged by the clerk of the municipality in the office of the Minister.

(19) A by-law passed under subsection 4 is not effective until the requirements of subsection 20 have been complied with.

(20) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office.

Section 51

This section re-enacts section 33a of the present Planning Act.

Section 52

This section sets out the procedures under which land may be conveyed by the subdivision plan process.

(21) No notice or hearing is required prior to the passing of a by-law under subsection 4, but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.

(22) The council shall hear in person or by his agent any person to whom a notice was sent under subsection 21, who within fifteen days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law.

Section 51: Partition Act Notice

51.-(1) Where an action or proceeding for the partition of land is brought under The Partition Act, notice shall be given to the Minister.

(2) The notice shall include a copy of the application for the partition of land and shall state the day on which the matter is to be heard, and, subject to the rules of court, shall be served not less than ten days before the day of the hearing.

(3) The Minister is entitled as of right to be heard either in person or by counsel notwithstanding that the Crown is not a party to the action or proceeding.

(4) Where the Minister appears in person or by counsel, the Minister shall be deemed to be a party to the action or proceeding for the purpose of an appeal and has the same rights with respect to an appeal as any other party to the action or proceeding.

Section 52: Plans of Subdivision

52.-(1) An owner of land or his agent duly authorized in writing may apply to the Minister for approval of a plan of subdivision of his land or part thereof.

It essentially re-enacts the provisions of section 33 of the present Act except as indicated. In addition the provisions currently contained in 33(12a) relating to lapsing of draft approval have been deleted.

(2) An applicant under subsection 1 shall provide as many copies as may be required by the Minister of a draft plan of the proposed subdivision drawn to scale and showing,

(a) the boundaries of the land to be subdivided, certified by an Ontario land surveyor;

(b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;

(c) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which he has an interest, every subdivision adjacent to the proposed subdivision and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;

(d) the purpose for which the lots are to be used;

(e) the existing uses of all adjoining lands;

(f) the approximate dimensions and layout of the proposed lots;

(g) natural and artificial features such as buildings or other structures or installations, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;

(h) the availability and nature of domestic water supplies;

(i) the nature and porosity of the soil;

(j) existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land;

(k) the municipal services available or to be available to the land proposed to be subdivided; and

(l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided.

Clauses (i) and (k) of subsection (4) are repeated from subsection 2 and are also to be treated as matters to which regard shall be had in assessing a subdivision plan.

(3) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the proposed subdivision.

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to the following,

(a) the effect of development of the proposed subdivision on provincial policies as referred to in section 2;

(b) whether the proposed subdivision is premature or in the public interest;

(c) whether the plan generally conforms to the official plan and adjacent plans of subdivision, if any;

(d) the suitability of the land for the purposes for which it is to be subdivided;

(e) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity, and, the adequacy thereof;

(f) the dimensions and shape of the lots;

(g) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands;

(h) conservation of natural resources and flood control;

(i) the adequacy of utilities and municipal services;

(j) the adequacy of school sites;

(k) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes.

Subsection (5) implements conclusion 35 of the White Paper. The Minister may impose conditions that are "reasonable" rather than "advisable", as is now the case.

The new subsection (5)(a) implements White Paper conclusion 37. A maximum of 2 per cent parkland dedication, or cash-in-lieu, in commercial or industrial subdivisions can be required rather than 5 per cent, as is now the case.

Subsection (7) implements the White Paper conclusion 36. As an alternative to the current 5 per cent parkland dedication, a municipality may require a higher amount in residential subdivisions at a rate of up to one hectare per 300 dwellings, on condition that official plan recreational policies have been approved.

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are reasonable, having regard to the nature of the development proposed for the subdivision and, in particular, but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

(a) that land to an amount to be determined by the Minister but not exceeding in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall be dedicated for park or other public recreational purposes;

(b) that such highways shall be dedicated as the Minister considers necessary;

(c) when the subdivision abuts on an existing highway that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister considers necessary; and

(d) that the owner of the land enter into one or more agreements with a municipality, or where the land is not in a municipality, with the Minister, dealing with such matters as the Minister may consider necessary, including the provision of municipal services.

(6) Every municipality and the Minister may enter into agreements imposed as a condition to the approval of a plan of subdivision and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.

(7) Where the Minister has imposed a condition under clause a of subsection 5 requiring land to be conveyed to the municipality and where the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such

Subsection (8) implements White Paper conclusion 39. Municipalities can "require" cash payments instead of parkland dedication rather than "accept", as is now the case.

Subsection (9) implements White Paper conclusion 76 by establishing the date on which land for public purposes is valued.

conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality.

(8) Where the Minister has imposed a condition under clause a of subsection 5 requiring land to be conveyed to the municipality, the municipality may, in lieu of accepting such conveyance, require the payment of money by the owner of the land,

(a) to the value of the land otherwise required to be conveyed; or

(b) where the municipality would be entitled to require a conveyance under subsection 7, to the value of the land that would otherwise be required to be so conveyed.

(9) For the purpose of determing the amount of any payment required under subsection 8, the value of the land shall be determined as of the day before the day of the draft approval of the plan.

(10) Land conveyed to a municipality pursuant to a condition imposed under subsection 5 shall be used for park or other public recreational purposes but may be sold at any time.

(11) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park or other public recreational purposes and may pay into the fund provided for in subsection 12 the sum so included in the estimates, and any person may pay any sum into the same fund.

(12) All moneys received by the municipality under subsections 8 and 11 and all moneys received on the sale of land under subsection 10, less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recreational purposes, including the acquisition of machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under The Trustee Act, and the earnings derived from the investment of such moneys shall be

Subsections (13)-(21) more clearly set out the procedures for approving a subdivision plan application, informing the applicant of the intended decision and the circumstances under which an application can be referred to the OMB. Subsection (14) is a new provision stating that where the Minister intends to refuse an application, the applicant must be informed and has 60 days in which to request a referral of the plan to OMB.

paid into such special account, and the auditor in his annual report shall report on the activities and position of the account.

(13) The Minister may, subject to subsections 14 and 15, give or refuse to give his approval to a draft plan of subdivision.

(14) Where the Minister proposes to refuse to give his approval to a draft plan of subdivision, the Minister shall give notice to the applicant together with written reasons as to why he proposes to refuse his approval and where the applicant does not, within sixty days of the giving of the notice, request the Minister to refer the draft plan to the Municipal Board, the Minister may thereupon refuse to give his approval to the draft plan.

(15) At any time before the Minister has given or has refused to give his approval to a draft plan of subdivision the Minister may, and upon application therefor shall, refer the draft plan of subdivision to the Municipal Board unless, in his opinion, referral to the Board would serve no useful purpose or unless, in his opinion, the request is made only for the purpose of delay and where the draft plan is referred to the Board the Board shall hear and determine the matter.

(16) Where an application is made under subsection 15, the application shall be accompanied by written reasons in support thereof.

(17) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions, imposed or to be imposed, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it.

(18) The Minister may, in his discretion, withdraw his approval to a draft plan of subdivision or change the conditions of such approval at any time prior to his approval of a final plan for registration.

(19) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with The Surveys Act and The Registry Act or The Surveys Act and The Land Titles Act, as the case may be, and to prepare a plan accordingly certified by an Ontario

Section 53

This section re-enacts section 34 of the present Planning Act.

land surveyor.

(20) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

(21) When a final plan for registration is approved under subsection 20 and is not registered within one month of the date of approval, the Minister may withdraw his approval.

(22) In addition to any requirement under The Registry Act or The Land Titles Act, the person tendering the plan of subdivision for registration shall deposit with the land registrar a duplicate, or when required by the Minister two duplicates, of the plan of a type approved by the Minister, and the land registrar shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

(23) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act.

Section 53: Land Sales Offences by Unregistered Plan

53.-(1) No person shall offer for sale, agree to sell or sell land by a description in accordance with an unregistered plan of subdivision, other than a plan of subdivision in respect of which draft approval has been given under section 52.

(2) In subsection 1, "unregistered plan of subdivision" does not include a reference plan of survey under section 167 of The Land Titles Act that complies with the regulations under that Act or a plan deposited under Part II of The Registry Act in accordance with the regulations under that Act.

Section 54

This section sets out the procedures under which land may be conveyed by the consent process. It incorporates some parts of the current Planning Act (sections 29 and 42) as well as introducing new subsections required to implement the White Paper conclusions.

Subsection (3) establishes the date on which land for park or other public recreational purposes is valued.

Subsection (4) implements conclusion 61. For the regulations prescribing circulation requirements see Appendices.

Subsections (5)-(9) set out the procedures which apply where a municipal council is responsible for making the decision. Provision is made for the notification of a decision and for appeal to the Ontario Municipal Board.

Section 54: Consents

54.-(1) An owner of land or his agent duly authorized in writing may apply for a consent and the council or the Minister, as the case may be, may, subject to subsections 2 to 19, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.

(2) A council or the Minister, as the case may be, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 4 of section 52 and have the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsection 5 of section 52, and subsections 5, 7, 8, 10 and 12 of section 52 apply with the necessary modifications.

(3) Where, on the giving of a consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the giving of the consent.

(4) A council, in determining whether a consent is to be given, shall confer with such agencies or persons as are prescribed.

(5) Where a decision is made by a council to give a consent, written notice of the decision, setting out the conditions, if any, imposed to the giving of the consent, shall be sent, not later than seven days from the making of the decision, to the applicant, to the Minister and to every agency or person conferred with under subsection 4 that in writing requested to be given notice of the decision.

(6) Where a decision is made by a council to refuse to give a consent, written notice of the decision shall be sent not later than seven days from the making of the decision to the applicant together with written reasons for the decision.

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent may within twenty-eight days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decicion, a

Subsections (10)-(14) set out the procedures which apply where the Minister is responsible for making the decision. Provision is made for referral to the OMB when the Minister proposes to refuse to give a consent or when the applicant is not satisfied with any of the conditions imposed.

notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Municipal Board under The Ontario Municipal Board Act.

(8) The clerk of the municipality upon receipt of a notice of appeal filed under subsection 7 shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection 7 to the Municipal Board by registered mail together with all papers and documents filed with the council relating to the matter appealed from and such other documents and papers as may be required by the Board.

(9) If within the twenty-eight days mentioned in subsection 7 no notice of appeal is filed and the council is satisfied that the conditions, if any, imposed to the giving of the consent have been fulfilled the consent may thereupon be given.

(10) The Minister in determining whether a consent is to be given shall confer with such officials, authorities, corporations, bodies or persons as the Minister considers may have an interest in the application and thereafter may, subject to subsections 11 to 19, give, or refuse to give, the consent.

(11) Where the Minister proposes to impose conditions to the giving of a consent, the Minister shall give written notice to the applicant specifying the conditions, and the Minister may change the conditions at any time prior to the giving of the consent.

(12) Where the Minister proposes to refuse to give a consent, the Minister shall give notice to the applicant together with written reasons as to why it is proposed to refuse to give the consent and where the applicant does not, within sixty days of the giving of the notice, request the Minister to refer the application for consent to the Municipal Board, the Minister may thereupon refuse to give the consent.

(13) At any time before written notice is given to an applicant under subsection 11 specifying conditions the Minister may, and upon application therefor accompanied by written reasons in support thereof shall, refer the application for consent to the Municipal Board unless, in the opinion of the Minister, referral to the Board would serve no useful purpose or unless, in the opinion of the Minister, the request is made only for the purpose of delay, but in no event may an application for consent be referred to the Board after the Minister has given or refused to give the consent.

Subsection (16) allows the OMB to dismiss an appeal without holding a hearing when it considers that the grounds of appeal are insufficient. This is in place of the leave to appeal provision proposed in conclusion 69 of the White Paper.

Subsection (20) is a new provision stating that if an applicant has not fulfilled the conditions within one year of the notice of the decision, the consent shall be deemed to be refused.

(14) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situate, is not satisfied as to the conditions or any of the conditions imposed or to be imposed by the Minister, he or it, at any time before the consent is given, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister.

(15) On an appeal to the Board under subsection 7 or where an application for a consent is referred to the Board under subsection 13 or where conditions are referred to the Board under subsection 14, the Board shall hold a hearing of which notice shall be given to such agencies or persons and in such manner as the Board may determine.

(16) Despite subsection 15, the Board may, where it is of the opinion that the reasons in support of an appeal under subsection 7 are insufficient, dismiss the appeal without holding a hearing and where the Board does so it shall give written reasons therefor to the applicant.

(17) Following the hearing on an appeal under subsection 7 or a referral under subsection 13, the Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on a referral of conditions under subsection 14 the Board shall determine the question as to the condition or conditions referred to it.

(18) Where under subsection 17 the decision of the Municipal Board is that a consent be given, the council or the Minister, as the case may be, shall thereupon give the consent, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

(19) Where the decision of the council or the Minister on an application is to give a consent and there has been no appeal under subsection 7 and no referral under subsection 13, the consent may be given, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

(20) Where conditions have been imposed and the applicant has not, within a period of one year from the giving of the notice mentioned in subsection 5 or 11, as the case may be, fulfilled the conditions, the application for consent shall thereupon be

Section 55

This section provides for the delegation of the granting of consents to a committee of council, an appointed officer or to a land division committee, or in the case of a city, or separated town outside of a region, to a committee of adjustment in lieu of a land division committee. The section implements conclusion 16 of the White Paper as it relates to consent granting.

deemed to be refused.

(21) When a consent has been given under this section, the clerk of the municipality, the council of which gave the consent or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, notwithstanding any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent but where the authority to give consents has been delegated under section 55 to a land division committee or to a committee of adjustment the certificate shall be given by the secretary-treasure of the appropriate committee.

(22) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection 21 if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister, as the case may be, in giving the consent may provide for an earlier lapsing of the consent.

Section 55: Council Delegation of Consents

55.-(1) In subsection 2, "council" means the council of a county or of a regional, metropolitan or district municipality.

(2) A council may by by-law delegate the authority of the council under section 54 to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee.

(3) In subsection 4, "council" means the council of a city that is not situate within a regional municipality or that is not situate within The Municipality of Metropolitan Toronto, The District Municipality of Muskoka or the County of Oxford and the council of any other local municipality that is within a county but that does not form part of the county for municipal purposes.

(4) A council may, by by-law, delegate the authority of the council under section 54 to a

Section 56

This section re-enacts the provisions of the current section 30b of the Planning Act. The Minister is charged with the responsibility of appointing members to the committee.

committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment.

(5) Where, under subsection 4, a committee of adjustment has had delegated to it the authority to give a consent, the provisions of subsections 2 to 22 of section 54 apply with the necessary modifications and the provisions of subsections 3 to 18 of section 45 do not apply, in the exercise of that authority.

(6) A delegation made by a council under this section may be subject to such conditions as the council by by-law provides and the council may by by-law withdraw the delegation.

Section 56: Appointment and Duties of a District Land Division Committee

56.-(1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 54 in respect of such lands situate in a territorial district as are defined in the order.

(2) A delegation made by the Minister under subsection 1 may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

(3) Where the Minister has delegated his authority to a district land division committee under subsection 1, the provisions of subsections 5, 6, 7, 8 and 10 of section 44 apply with the necessary modifications.

(4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 6 of section 52 apply with the necessary modifications to any such agreement.

(5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them.

(6) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be paid into

Section 57

This implements a portion of conclusion 16 by providing that a land division committee may be established to give consents.

Section 58

This section re-enacts section 29a of the present Planning Act.

the Consolidated Revenue Fund.

Section 57: Appointment and Duties of Land Division Committee

57.-(1) The council of a county or of a regional, metropolitan or district municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable.

(2) The provisions of subsections 2 to 10 of section 44 apply, with the necessary modifications, where a land division committee is constituted under subsection 1 of this section.

Section 58: Validation

58.-(1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of The Planning Act, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause b of subsection 1 of section 27, as it existed on the 25th day of June, 1970, of The Planning Act, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister.

(2) No order shall be made by the Minister under subsection 1 in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has, by by-law requested the Minister to make such order, which such by-law the council is hereby empowered to pass.

(3) A council may, as a condition to the passage of a by-law under subsection 2, impose such conditions in respect of any land described in the by-law as it considers appropriate.

(4) Nothing in this section derogates for the power a council or the Minister has to grant consents referred to in section 54.

Section 59

This section re-enacts the provisions of section 25 of the current Planning Act.

Section 60

This section re-enacts the provisions of section 26 of the current Planning Act.

Section 61

This section re-enacts the provisions of section 27 of the current Planning Act.

Section 62

This section implements the last part of conclusion 62 in the White Paper. It exempts the notification and public meeting procedures for official plans, community improvement plans and zoning by-laws conducted by municipal councils, or their delegates from the provisions of The Statutory Powers Procedure Act. Procedures relating to the adoption of official plans prepared by planning boards solely in unorganized territory are also exempted.

Section 63

This section implements the first part of conclusion 9, and generally exempts Ontario Hydro from the provisions of The Planning Act. This is done on the grounds that Hydro is subject to The Environmental Assessment Act where the public will be given the right of appeal and a full hearing before the Environmental Assessment Board. To also require Hydro to be subject to The Planning Act would involve needless duplication.

Part VII Miscellaneous Provisions

Section 59: Municipal Act Applies to Land Acquisition

59. The provisions of The Municipal Act apply to the acquisition of land under this Act.

Section 60: Power to Clear, Grade, etc., Land

60. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held.

Section 61: Exchange of Land

61. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality.

Section 62: Statutory Powers Procedure Act Exemption

62. Notwithstanding any general or special Act, The Statutory Powers Procedure Act, 1971 does not apply to any proceedings under section 17, 28 or 34 in or before the council of a municipality or a committee of council or, under section 19, in or before a planning board.

Section 63: Ontario Hydro Exemption

63. Except as provided in section 3, 6 or 48, this Act does not affect Ontario Hydro.

Section 64

This section implements conclusion 77 and provides for a unified hearing process where a private development is subject to The Environmental Assessment Act. The single hearing procedure is initiated by the Minister, with Cabinet approval, transfering planning applications to the Environmental Assessment Board

Section 65

This section re-enacts parts of the provisions contained in section 44 of the current Planning Act relating to actions of the Ontario Municipal Board when matters have been referred to it for a final decision.

Section 66

This is a new section similar to the previous section insofar as it relates to decisions taken by a Minister's or a municipal council's delegate.

Section 64: Unified Hearing, Environmental Assesssment and Planning Acts

64. Where a hearing is required to be held by the Environmental Assessment Board in respect of an undertaking as defined by subclause ii of o of section 1 of The Environmental Assessment Act, 1975, the Minister may, with the consent of the Lieutenant Governor in Council, by order, transfer to the Environmental Assessment Board,

(a) any matter of which the Minister is seized under this Act; or

(b) any proceedings pending before the Municipal Board under this Act,

which matter or proceedings thereupon become the responsibility of that Board and its decision in respect thereof shall have the same force and effect as if it were the decision of the Minister or the Municipal Board, as the case may be.

Section 65: Effect of Municipal Board Approval

65.-(1) Where a matter is referred to the Municipal Board under this Act the approval or consent of the Municipal Board has the same force and effect as if it were the approval or consent of the Minister or the council of a municipality.

(2) Where an approval or consent is given under this Act the provisions of this Act leading to such approval or consent shall be deemed to have been complied with.

Section 66: Effect of Delegate's Approval

66. Where the Minister or the council of a municipality delegates under this Act the authority to give an approval or consent, an approval or consent given under the authority has the same force and effect as if it were the approval or consent of the Minister or the council as the case may be.

Section 67

This section implements conclusion 56 of the White Paper, and establishes a new range of penalties which can be imposed for contravention of by-laws and other specified provisions of the Act.

Section 68

This section essentially re-enacts the provisions of section 7 of the current Planning Act relating to the disclosure of information under The Assessment Act.

Section 67: Penalties

67.-(1) Every person who contravenes section 53 or 46 or who contravenes a by-law passed under section 34, 37 or 38 or an order made under section 47, is guilty of an offence and on conviction is liable,

(a) on a first conviction to a fine of not more than $20,000; and

(b) on a subsequent conviction to a fine of not more than $10,000 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.

(2) Where a corporation is convicted under subsection 1, the maximum penalty that may be imposed is,

(a) on a first conviction a fine of not more than $50,000; and

(b) on a subsequent conviction a fine of not more than $25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,

and not as provided in subsection 1.

(3) Where a conviction is entered under subsection 1, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.

Section 68: Assessment Act Disclosure

68.-(1) Notwithstanding section 78 of The Assessment Act, it is not an offence to disclose the information referred to therein to any person who declares that such information is required in the course of his planning duties.

Section 69

This section authorizes the issuance of regulations governing standards of development that may be sought by the Minister of Housing from time to time. Such standards as those recommended in conclusion 71 of the White Paper, dealing with urban development, would not be introduced until fully discussed with municipalities.

Section 70

This section implements various conclusions in the White Paper relating to the issuance by the Lieutenant Governor in Council (the Cabinet) of procedural and other regulations necessary for the implementation of The Planning Act.

(2) A person who wilfully discloses or permits to be disclosed the information referred to in subsection 1 to any other person not likewise entitled in the course of his duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than $200, or to imprisonment for a term of not more than six months, or to both.

(3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration.

Section 69: Development Standards

69. Municipalities and planning boards in formulating and implementing planning policies shall have regard to such standards for the development of municipalities as are prescribed.

Section 70: Lieutenant Governor May Make Regulations

70. The Lieutenant Governor in Council may make regulations,

(a) prescribing for the purposes of subsection 2 of section 17, section 19, subsection 5 of section 28, subsection 17 of section 34, subsection 3 of section 37 or subsection 4 of section 45, the persons and agencies that are to be given notice, the manner in which notice is to be given and the information that must be contained therein;

(b) providing for the charging of a fee on any application made in respect of a planning matter to a planning board that has had authority delegated to it by the Minister, or to a municipality or to a committee of adjustment and prescribing the maximum amount of any such fee;

(c) prescribing persons or a class or classes of persons for the purposes of subsection 4 of section 34;

Section 71

This section re-enacts the provisions of section 46 of the current Planning Act.

(d) prescribing for the purposes of section 69, standards for the development of municipalities which standards may vary according to population, geographic location or otherwise;

(e) prescribing the rules of procedure mentioned in subsection 11 of section 44;

(f) prescribing agencies or persons for the purposes of subsection 4 of section 54; and

(g) prescribing for the purposes of subsection 10 of section 45, the additional information and material required to be sent to the Minister.

Section 71: Conflict with Other Acts

71. In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail.

Appendices

A The Official Plan

(i) The Revised Official Plan Process

Official plans and official plan amendments will be prepared for a municipality or joint planning area pursuant to sections 16 to 27 inclusive.

In preparing an official plan or official plan amendment, all affected persons will have to be notified before any adoption of the document. In addition, notification will have to be given to affected municipalities and joint planning areas. The intent is to provide notice and give the opportunity to those affected to have an input to an official plan or official plan amendment before the municipality or joint planning area adopts it. Although not mandatory, it will be beneficial if affected local and provincial agencies are also contacted prior to adoption. The notification, which will be prescribed by regulation, will indicate what is being proposed for adoption and when it will be dealt with in a meeting of council or the joint planning board. If significant changes are made to the proposed official plan or official plan amendment as a result of the notification, it may be necessary to re-notify those affected.

After council adopts the official plan or official plan amendment, it is submitted, along with information on the public notification and agency notification, to the Ministry of Housing (or to a municipality which has been delegated the approval authority). The public and agencies who have requested notice of council's decision must be notified within 7 days of council's decision.

Upon receipt of an official plan, the Ministry of Housing (or delegated authority) will review it, resolve conflicts to the degree necessary, and approve it. Legislation requires the Minister to wait at least 21 days prior to approval, to allow those notified to make requests for referral to the Ontario Municipal Board if they are dissatisfied with the document as adopted.

Section 21 allows the Minister to waive approval of an official plan amendment after the 21 day minimum referral period has expired. This will occur where the official plan amendment is submitted with complete information on circulation to public authorities and agencies prior to adoption and there are no legitimate concerns of any public authority or agency to the document. The waiving of approval of an official plan amendment will occur where the amendment has been responsibly prepared and submitted by the municipality and any concerns have been overcome, taking into account municipal and provincial interests.

Anyone may request the Minister (or delegated approval authority) to refer a matter to the Ontario Municipal Board, subject to section 17(9). Where a matter is referred to the board, the board's decision is final except where the Minister advises that the matter is of provincial significance. The board then holds a hearing and makes a recommendation to the Minister who makes the final decision.

(ii) Outline of Regulation Prescribing Notification Requirements and Circulation of Official Plans and Official Plan Amendments

The draft Act provides for regulations prescribing specific municipal procedures for notification, hearing and appeal of defined planning actions. A main objective is to require notification and a public meeting before a final council decision is made.

Given the wide range of types of official plan documents submitted for approval, it is important not to be overly specific in the requirements of the regulation. The requirements for public notification of official plans and official plan amendments should be comparable to public notice requirements for restricted area by-laws (e.g. the specific distance for site specific official plan

amendments should be 120 metres).

The regulations to be issued when the Act comes into force will be based on the following principles:

(a) before making a final decision on an official plan or official plan amendment, a municipality will be required to notify all affected persons

(b) for official plans or official plan amendments of general application, notification may be by advertisement in newspapers having general circulation in the area

(c) for site specific official plan amendments, all persons within a specified distance of the proposal site will be directly notified

(d) all types of notice should describe the action or proposal in everyday language and state when council (or committee or planning board) will hold a meeting to deal with the matter (at least 21 days after notice was given)

(e) notices should indicate where further detailed information relating to the proposed action can be examined

(f) the notice should state that any person wanting to make representations should be prepared to do so at the municipal meeting.

Regulations will prescribe the procedures and conditions for circulation of official plans and official plan amendments to interested agencies prior to adoption and will establish:

(a) the agencies to which a specific type of official plan or official plan amendment must be circulated and those which may receive it, at the discretion of the municipality

(b) that agencies must respond within 30 days with provision for one extension for a specific period of time if agreed to by the municipality and the agency requesting an extension

(c) that after the expiry of the period or

periods for response, the municipality may proceed to adopt the official plan or official plan amendment.

The Act requires that when submitted to the Minister, the official plan or official plan amendment will have to be accompanied by a written statement indicating the public involvement procedures carried out by the municipality during the preparation of the official plan or official plan amendment. In addition, a list of those public authorities and agencies to which the document was circulated will have to be submitted along with the comments received from those public authorities and agencies.

The regulation prescribing requirements for circulation of official plans and official plan amendments will indicate the requirement for:

(a) mandatory circulation to:

- the clerk of each regional municipality, district municipality, metropolitan municipality or county for official plans and official plan amendments which are proposed by a city, town, village or township within its boundaries

- the clerk of each affected city, town, village or township for official plans and official plan amendments which are proposed by a regional municipality, district municipality, metropolitan municipality or county

- the clerk of every municipality adjoining or within one kilometre of the area affected

- the secretary-treasurer of every joint planning board affected

(b) discretionary circulation to:

- the secretary of every school board having jurisdiction within the area affected

- the secretary-treasurer of every conservation authority having jurisdiction within the area affected

- the Ministry of Natural Resources

- the Ministry of the Environment

- the Ministry of Housing

- the Ministry of Agriculture and Food (Foodland Development Branch)

- the Ministry of Transportation and Communications (Corridor Control Section) where any part of the land affected is within the jurisdiction of M.T.C. under section 31 or 35 of The Public Transportation and Highway Improvement Act

- to the Niagara Escarpment Commission where the area affected is within or adjoining the Niagara Escarpment Planning Area

- to railways (e.g. C.P.R., C.N.R.), utility companies (e.g. Ontario Hydro, Trans-Canada Pipelines), federal agencies (e.g. Parks Canada, Ministry of Transport), provincial agencies (e.g. Ministry of Culture and Recreation, Ministry of Industry and Tourism, Ministry of Intergovernmental Affairs), local agencies (e.g. Health Unit, park committees, Local Architectural Conservation Advisory Committee), plus any others deemed necessary

When submitting an official plan or amendment for approval, the following will need to be included as well:

- adequate copies of the official plan or amendment

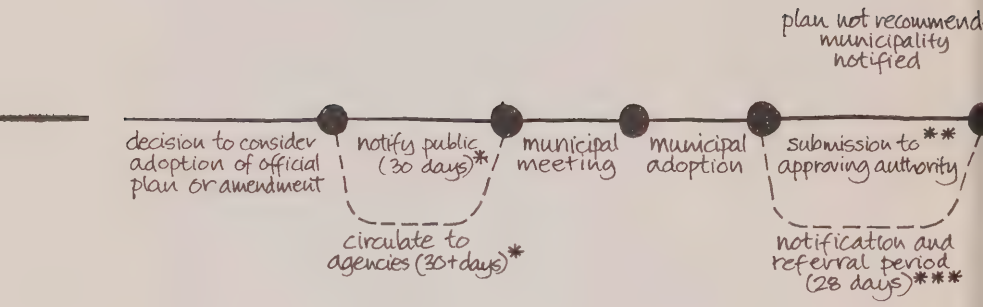
- a written statement on the public notification procedures carried out

- a list of agencies to which the draft was circulated and copies of comments from the agencies that responded.

(iii) Outline of Procedures on Waiving the Need for Approval of Amendments to Official Plans

The draft Act enables the Minister to waive the need for formal approval of amendments that do not affect the provincial interest.

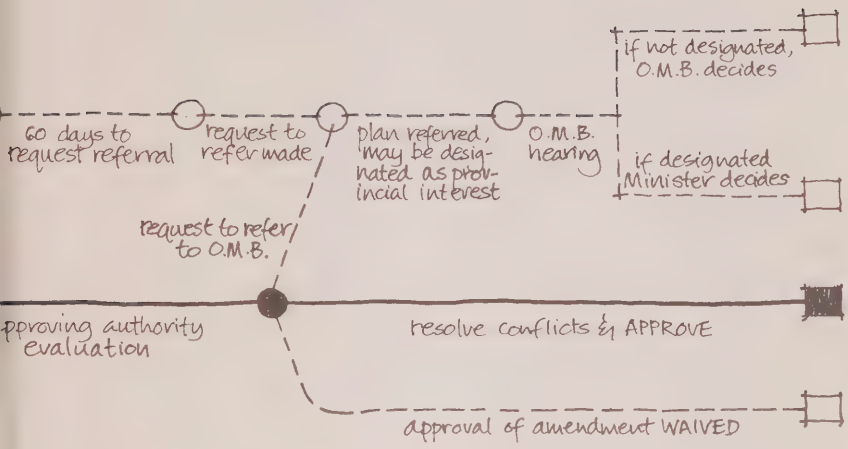
Official Plan Approval Process



* *Notice and circulation to be in accordance with regulation*

** *Submission is to include:*

- *a copy of O.P. or amendment*
- *list of agencies circulated*
- *copy of agencies' comments*
- *summary of public involvement procedures*



*** Notification of adoption must occur within first 7 days of the 28 day referral period

Note: Where the approval authority has been delegated, the Minister may call-in an O.P. or amendment after submission.

The municipality would be quickly notified of this, and the amendment would come into force as soon as the formal notification is received. The White Paper states that this process, while still allowing the province to monitor municipal planning activity, will substantially reduce the time taken for the coming into force of more than half of all official plan amendments.

It is first necessary to clearly establish the conditions under which process of waiving approval could be used.

These would be where

(a) the official plan amendment is submitted with complete information on circulation to public authorities and agencies prior to adoption and there are no concerns of any provincial authority or agency about the document

(b) public notification is properly carried out

(c) there are no requests for referral

(d) there is no need to circulate the official plan amendment to any public authority or agency for a new or revised comment

(e) no modifications are required (by provincial agencies, an upper or lower-tier municipality affected, or by the applying municipality itself)

The waiving of approval should be given in normal circumstances immediately after the 21 day minimum referral period has expired. Such waiving of approval of an official plan amendment will also be used to give a clear indication to the municipality that they have responsibly prepared and submitted the amendment and have overcome any concerns if there were any, taking into account municipal and provincial interests.

B The Zoning By-law

(i) Revised Approval Process

Zoning by-laws and amendments initiated by either the municipality or on application from a land owner, will be approved under the following process to be established by regulation.

The municipality must give notice of its intention to consider a proposed by-law or amendment to affected property owners and public agencies. This notice will be given to those individuals and public agencies presently listed in the OMB rules of procedure and in the regulation under section 35(24) of The Planning Act. The notice will indicate the time and place of the required council meeting at which the proposed by-law will be considered. Notice must be given at least 30 days prior to the date of the meeting.

Council will be required to hold such a public meeting on the proposed by-law prior to formal adoption.

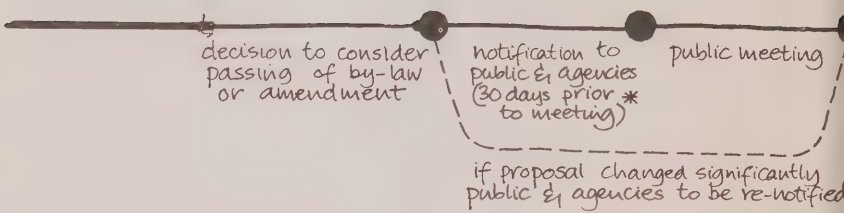
Council may approve the by-law as proposed or with modifications, or may refuse to approve the by-law. If significant changes are made, the public and agencies circulated or notified previously must be re-notified and another public meeting held.

The clerk must give notice of council's decision within 7 days. This notice will be given to individuals who register with the clerk at the public meeting, to those public agencies specifically requesting such notice, to the Ministry of Housing and to the regional municipality or county having jurisdiction. The notice will establish a 28 day period from the date of the municipal decision within which anyone receiving the notice may appeal the decision to the OMB.

If an appeal is not lodged, the by-law becomes effective at the end of the appeal period.

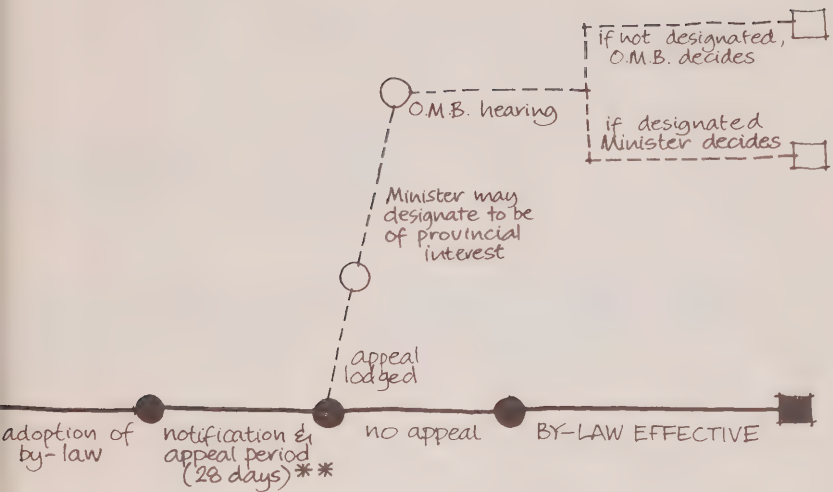
If an appeal is lodged, the matter must be submitted to the OMB. The Minister of Housing may, at any point prior to the OMB

Zoning By-law Approval Process

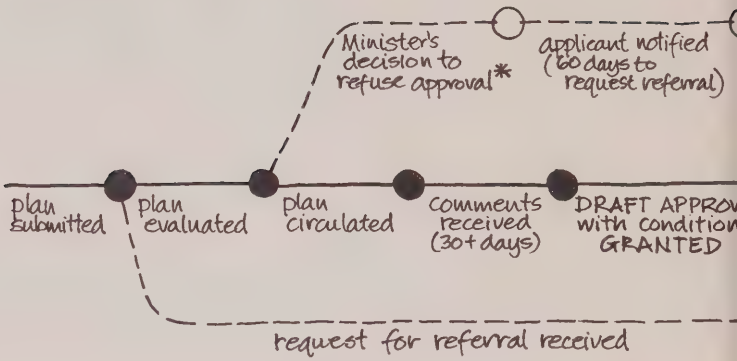


* *Notice to be in accordance with regulations*

** *Notification of adoption must occur within first 7 days of the 28 day appeal period*

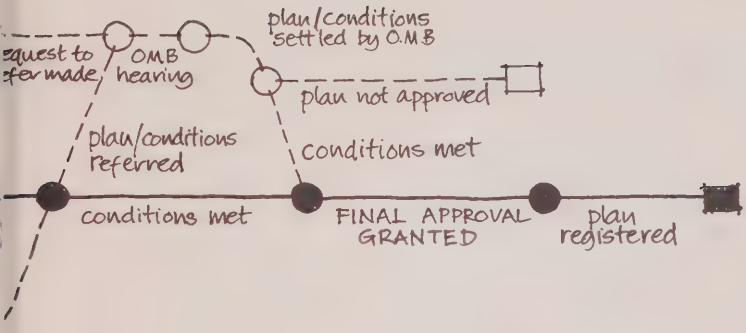

if not designated, O.M.B. decides
O.M.B. hearing
if designated Minister decides
Minister may designate to be of provincial interest
appeal lodged
adoption of by-law
notification & appeal period (28 days) **
no appeal
BY-LAW EFFECTIVE

Subdivision Approval Process



* *Minister's decision to refuse approval can be made anytime prior to draft approval*

Where the subdivision approval authority has been delegated, the Minister may call-in a subdivision plan anytime between submission and final approval.


equest to
efer made
OMB
hearing
plan/conditions
settled by O.M.B
plan not approved
plan/conditions
referred
conditions met
conditions met
FINAL APPROVAL
GRANTED
plan
registered

hearing, designate the matter as provincially significant. The OMB will then hear the appeal and decide on the matter. The OMB decision will be final unless the minister has designated the matter as being provincially significant. In such cases, the OMB will make a recommendation to the minister and the minister's decision will be final.

C Plans of Subdivision

(i) Revised Approval Process

The principle components of the subdivision approval process remain unchanged in the proposed new planning act. The subdivider will submit his application to the approving authority as usual and the application will be circulated to a variety of provincial and public agencies for comment. The circulation step is to be completed within 30 days, though there will be a provision for an extension to this time where warranted. Approval of a subdivision application will be a two stage approval as before. The first stage, draft approval, is an approval in principle which sets conditions to be satisfied before final plan approval is granted. The majority of these conditions will be satisfied through the subdivision agreement between the municipality and the subdivider. When the conditions have been met to the satisfaction of the approving authority, the process is complete, final approval is granted and the plan can be registered.

Changes to the section of the act dealing with subdivisions relate primarily to the conditions of approval. The setting of conditions that are "advisable" is replaced by conditions that are "reasonable", having regard to the nature of the proposed subdivision development. Conditions pertaining to the conveyance of parkland have been changed. Conveyances for commercial and industrial subdivisions are reduced to 2% of the total area of the plan. The 5% parkland conveyance remains for residential subdivisions. As well, cash-in-lieu of parkland provisions are changed in that the municipality may "require" rather than

"accept" the cash payment.

Referral and appeal provisions remain essentially unchanged except that where the Minister proposes to refuse approval of a plan, he must give written notice with reasons for the refusal. The refusal becomes final if the applicant does not request the Minister to refer the draft plan within 60 days of the giving of the notice.

D Consents and Minor Variances

(i) Revised Consent Approval Process

The consent approval process will remain largely unchanged. The regulation which governs the existing procedure will be modified slightly to reflect the new procedure.

Consent applications will be submitted to the approval authority. The authority to grant consent will be vested with the councils of regions and counties and cities and separated towns outside of regions. The authority may be delegated to either a committee of council, an appointed committee or a designated official.

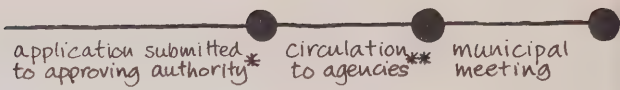
The approval authority will be required to circulate applications to certain public agencies. These agencies will be given 30 days to provide comments, although there will be a provision for an extension to this period where warranted.

The approval authority will be required to make a decision following the circulation.

Notice of the decision must be sent within 7 days to the applicant, and any person requesting such notice and to any public agency specifically requesting notice. A 28 day period from the date of decision is provided within which any individual or agency receiving a copy of the decision may appeal the decision.

If an appeal is not lodged, the decision of the approval authority is final and binding.

Consent Approval Process

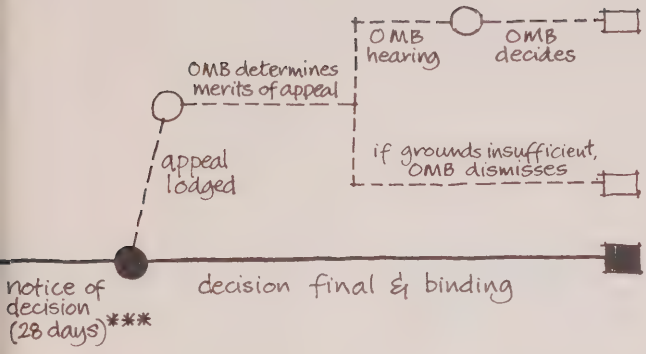


* *The approval authority may be*

(1) a Regional, Metro, District or County Council, or a L.D.C., or, outside these areas

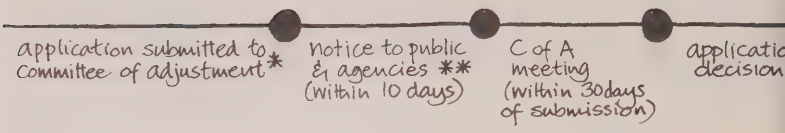
(2) a city or separated town council or a committee of adjustment, appointed by it

** *Circulation to be in accordance with rules of procedure*



*** *Notification of decision must occur within first 7 days of the 28 day appeal period*

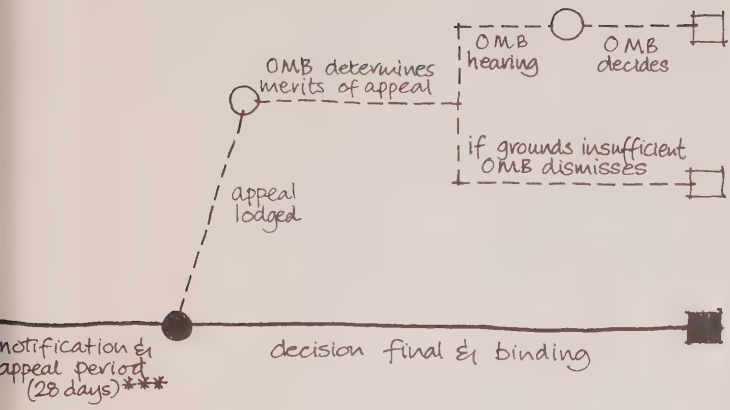
Minor Variance Approval Process



* *Committee of adjustment may be the municipal council, a committee of council or a non-elected committee, appointed by council*

** *In accordance with prescribed rules of procedure*

*** *In accordance with prescribed rules of procedure. Notice must be given within first 7 days of the 28 day appeal period*


OMB hearing
OMB decides
OMB determines merits of appeal
if grounds insufficient OMB dismisses
appeal lodged
notification & appeal period (28 days)***
decision final & binding

If an appeal is lodged, the OMB will examine the merits of the appeal, and if the grounds are insufficient, the OMB may dismiss the matter without a hearing. If the grounds for appeal are sufficient, the OMB may conduct a hearing and its decision is final and binding.

(ii) Revised Minor Variance Approval Process

The main change in regard to the minor variance process is that council members will be able to sit on committees of adjustment. Regulations very similar to those currently in effect will govern the process.

The committee of adjustment will be required to give notice of an application to affected property owners and to specified public agencies. This notice must be sent at least 10 days prior to the hearing date of the application.

The committee will be required to hold a hearing on the application within 30 days of receipt.

Notice of decision must be sent within 7 days to the applicant, any individual attending the hearing and requesting such notice and to any public agencies which specifically requested notice. The notice will establish a 28 day period from the date of the decision within which the application may be appealed.

If an appeal is not received within the time period, the decision of the committee is final and binding.

If the grounds for appeal are insufficient, the OMB may dismiss the appeal without a hearing. If the grounds for appeal are sufficient, the OMB may conduct a hearing on the matter and its decision will be final and binding.

E Joint Planning

Sections 8 to 13 of the draft Act set out the new provisions for joint planning based on chapter 5 of the White Paper.

The White Paper proposed that:

- In future, joint planning will be recognized as a purely voluntary activity between two or more municipalities.

- The Minister's approval of a joint planning area would no longer be required. Instead, the establishment of a planning area, and the composition, budgetary and staffing arrangements and duties of a joint planning board would be established through an agreement between the participating municipalities. The "designated municipality" provision would also be eliminated.

- A joint planning board would consist of elected persons appointed by the respective municipalities.

- In northern Ontario provision will be made to permit the Minister to establish a planning board having jurisdiction over an area that includes both municipalities and unorganized lands or an area consisting entirely of unorganized territory.

- To facilitate the transition to the proposed system, existing joint boards would be dissolved one year after the new legislation comes into effect or upon the formulation of a new joint board.

The provisions in the draft Act are essentially the same as those proposed in the White Paper, but a few changes have been made, particularly concerning northern Ontario.

Joint Planning in Southern Ontario

The provisions relating to joint planning between municipalities in southern Ontario*, are essentially those contained in the White Paper.

All existing joint planning areas will be automatically dissolved within one year of the new Act coming into force. These transitional provisions are not presently included in the draft legislation but will be added to the new Act before it is introduced into the Legislature.

---

* Excluding municipalities contained within regional governments.

The provisions for the establishment of a planning area and the composition of a planning board are set out in sections 8 to 11 of the draft Act. Two or more municipalities can, by agreement, establish a planning area and appoint a planning board. Although Ministerial approval is not required, the Minister must be notified that a planning area has been defined and a planning board appointed.

The only change from the White Paper is that a planning board may include lay people, but at least one representative from each municipality must be an elected person, and the elected representatives must form a majority of the Board. This change has been made in response to concerns that municipal councillors are already overburdened with committee or board representation and that lay representatives help to both ease this strain and bring another dimension to the planning process. The elected majority requirement is intended to still make the board a politically accountable body. Appointments to the board are to coincide with the term of office of the municipal council.

The functions of a planning board, (section 14) are to provide advice and assistance in respect of such planning matters affecting the planning area as are referred to it by the municipal councils.

These functions can include providing staff support to municipalities, advising on planning issues of a municipal or area-wide nature, reviewing development proposals and preparing and recommending on zoning by-laws and official plans.

Section 18 also sets out the options for the preparation of official plans. If requested by <u>any</u> of the municipalities in the planning area, the planning board can prepare an official plan for that municipality, or, if requested by <u>all</u> of the municipalities in the planning area, it can prepare an official plan for the whole of the planning area. An official plan for the whole of the planning area must be adopted by a majority of municipal councils in the planning area before it can be submitted to the Minister for approval, and an official plan prepared for a single municipality must be adopted by that municipality before it can be submitted. The provision that the plan be submitted by

a designated municipality is no longer required.

It will therefore be possible for two levels of plans to exist in joint planning areas, an overall plan and a plan for a single municipality. The government is of the opinion, however, that two levels of plans are quite enough. Accordingly, the Ministry will ensure that as a general principle no municipality in southern Ontario should have more than two official plans applying to it. This means that in situations where a county plan is prepared, and where a joint plan and a municipal plan already exist, one or the other of the latter two plans may be required to be repealed or the plans may be required to be consolidated into one plan.

Joint Planning in Northern Ontario

Provisions relating to the establishment of planning areas in northern Ontario (sections 9 and 10) incorporate two changes from the White Paper proposals. The first of these is that the Minister's approval will be required in all instances when a joint planning area is established, just as it is now.

The reasons for this change are twofold. Firstly, in many situations in northern Ontario there is likely to be unorganized territory abutting municipally organized areas which the Minister may wish to see included in the planning area. The second is that the draft legislation permits the Minister to designate some of his planning authority, such as the granting of consents, to a planning board in the north.* In such situations, the Minister would wish to be assured that the planning area is a viable planning jurisdiction.

The second change is that the one year "sunset clause" which will require the dissolution of all existing joint planning areas will not, except for the elimination of the designated municipality provision and the composition of planning board membership, apply in northern Ontario.

---

* In southern Ontario the consent function will only be carried out by counties and cities.

This is because existing joint planning areas are, and will continue to be, the only viable mechanism, in the absence of a county structure, to address "area-wide" planning concerns. It is simply felt that the province has a responsibility to ensure that such concerns can still, in fact, be addressed.

The Minister will remain responsible for specifying the number of members from each municipality in the planning area, and for directly appointing members from unorganized lands.

The White Paper proposals which allow for the Minister to establish a planning area consisting entirely of unorganized territory remain unchanged and can be found in section 10 of the draft Act.

F Delegation of Minister's Authority

White Paper Proposal

Counties may be delegated the Minister's authority under The Planning Act to approve plans of subdivision and condominium and lower-tier official plans. Cities outside of regional-type municipalities or restructured counties and separated towns may be delegated the Minister's authority to approve plans of subdivision and condominium.

Proposed Policy

In order to qualify for delegation a municipality will be required to meet the following criteria:

1. Appropriate official plan coverage;
2. Permanent professional planning staff;
3. Approved administrative procedures; and
4. Financial resources sufficient to operate the power.

1. Appropriate official plan coverage

(a) Counties

Before being able to assume delegated authority from the Minister, it will be

necessary for a county to have direct policy control over development proposals that will affect county interests.

It is considered that the county should have this general policy control over growth and change by having in place an approved official plan to which local official plans and subdivisions must conform.

A county official plan for these purposes is defined as being one with consistent upper-tier policies, covering the entire county, adopted by county council and approved by the Minister of Housing. It could be a one-tier official plan or the upper level plan of a two-tier planning system.

Where a county plan does not cover all municipalities within the county such a county will not be deemed to quality for delegation until its plan is amended to provide complete coverage.

In areas of extensive joint plan coverage, the county may extract policies consistent with county-wide issues from the joint plans and consolidate them and adopt them as a suitable county plan.

The variety of circumstances in different counties precludes a prescribed county plan content. The Ministry will liaise with and assist counties with the preparation of county plans as a priority matter, while county official plans submitted to the Minister for approval will be evaluated on an individual basis.

(b) Cities and separated towns

Separated towns and cities not in metropolitan, regional or district municipalities or restructured counties will be required to have an approved official plan covering the entire municipality in order to qualify for delegated powers. The official plan must have been approved or reviewed

within the statutory five-year period.

2. Staff

In order to qualify for delegation the municipality must have permanent professional staff. Planning consultants on retainer would not meet this criterion.

The minimum requirement is one permanently employed full-time planner eligible for membership in the Canadian Institute of Planners, plus access to appropriate support staff.

3. Administrative procedures

Delegated municipalities must adopt suitable administrative procedures. Ministry staff will advise municipalities on such procedures on an individual basis.

4. Financial resources

The authority to which delegation is being made must demonstrate a willingness to provide suitable financing to support an appropriate planning program.

G Provincial Policy Statements

Section 3 of the draft Planning Act permits the Minister of Housing to issue policy statements on matters which are considered to be of provincial interest. Such statements may be issued by the Minister of Housing alone or in conjunction with another Minister.

Provision was made in the White Paper for this kind of document to permit the province to have a formal vehicle by which to declare provincial policy and bring it to the attention of all affected parties.

Policy statements are intended to fall between a regulation on the one hand, which has the full force of law and is, therefore, inflexible, and a guideline on the other, which is an advisory document only and has no legislative basis.

It will be noted in section 3 that an approving authority at the provincial and municipal levels

is required "to have regard to" the contents of the policy statement. This wording was deliberately chosen to provide a degree of flexibility because it is realized that there may be good reason why a particular policy should not be made to apply completely under all circumstances. The wording used will put a definite onus on the approving authority to consider fully the policy in question but the scope will be there to permit the authority to decide that in a specific case it would be unreasonable or inappropriate to apply the policy either in whole or in part.

Accordingly, it is important to realize that while policy statements will be legal documents specifically provided for in the new legislation they will not have the same force as a resulation and will not have to be slavishly followed in every circumstance.

Examples of matters that will be dealt with in policy circulars include the following:

- land use development adjacent to freeways
- minimum content of official plans for differing types of municipalities
- preservation of agricultural land
- land use development in relation to aircraft noise
- protection of areas subject to flooding or erosion (hazard lands).

As a preliminary indication of how a policy circular would be worded an example of one has been included. It deals with the subject of land use adjacent to freeways. It should be stressed that this is a draft statement prepared for explanatory purposes only, even though it is based on present provincial policy for this subject.

DRAFT

POLICY STATEMENT ON "NOISE AND NEW RESIDENTIAL DEVELOPMENT ADJACENT TO FREEWAYS"

(A final policy circular on this subject would be issued jointly by the Ministry of Housing in conjunction with the Ministries of Transportation and Communications and Environment.)

POLICY STATEMENT ON "NOISE AND NEW RESIDENTIAL DEVELOPMENT ADJACENT TO FREEWAYS"

INTRODUCTION

Noise in residential areas has become of greater concern in recent years. It is now expected that housing developments be designed to protect the residential environment as much as possible from external noise.

Planning principles should be adopted that minimize the chances of creating noise problems areas. Put simply, it means a proper place for every land use so that each use is compatible with the surroundings.

The overall goal should be to reduce the amount of residential land adversely affected by freeway noise. Residential areas should normally be located away from freeways. Wherever possible, commercial, light industrial, recreational and agricultural uses should buffer residential areas from noisy freeway traffic. If a residential area must be located near a freeway, suitably designed medium and high density residential buildings are more adaptable to the noise environment than low density single-family units. Also, they perform the function of the noise barrier (barrier block) for the rest of a residential site.

A policy dealing with current problems of freeway noise in existing residential areas and with noise problems associated with freeway construction or reconstruction through existing residential areas was jointly announced by the Ministers of Transportation and Communications and Housing in February 1977. It stated that, "where feasible", noise barriers would be provided and that a developer, proposing to build residential units adjacent to a freeway, would be required to take appropriate measures to reduce noise impact.

This circular establishes the policy, principles and specific sound level limits for noise control in outdoor recreational areas to which all new residential development near existing completed, partially developed or proposed freeways should adhere. A subsequent circular will establish principles and specific sound level limits for the indoor sound environment of new residential development near freeways.

POLICY STATEMENT

. *The objective for predicted sound levels in outdoor recreational areas is 55 dBA* or less.*

---

* Generally, the public reacts to noise when sound levels in outdoor recreational areas exceed 55 decibels (dBA). Public concerns, dissatisfaction, and complaints increase rapidly from approximately this level.

- *The province will not impose additional noise attenuation on the developer where the level is at or below the objective level.*

- *The developer shall be required to prove to the satisfaction of the approval authority, that the noise level in outdoor recreational areas after applying attenuation meansures is the lowest level technically, administratively and economically practicable. Any consideration of relief from achieving the objective level will be based on specific site characteristics, such as topography, existing development and the available sound attenuation options. Residential development should be prohibited where the attenuated sound level in outdoor recreational areas will exceed 70 dBA.*

- *The Ministry of Transportation and Communications will plan to achieve an attenuated sound level as low as technically, administratively and economically practicable below 70 dBA where a freeway is proposed to be built or expanded through a developed residential area.*

- *Where the noise levels are expected to exceed 55 dBA in outdoor recreational areas after the implementation of sound attenuation measures, the approval authority for any new residential development should require as a condition of approval that the developer inform prospective purchasers of residential lots which are so affected of the noise situation by posting a sign or by other appropriate means.*

- *Where residential development for which noise control measures will be required precedes the construction of a designated freeway, the approval authority may require as a condition of approval that:*

  (a) sufficient lands be conveyed at no cost for erection of a noise barrier; and/or

  (b) a pro-rated cost contribution be made prior to final approval for barrier construction, if barriers are considered necessary at the time of final approval.

For the purposes of this policy,

- *"freeway" is defined as an existing completed, partially developed or proposed provincial or municipal divided arterial highway that is accessible only from intersecting arterial streets at grade-separated interchanges;*

- *"outdoor recreational area" is defined to mean an outdoor living area immediately adjacent to the*

housing unit designed to accommodate a variety of individual outdoor activities; and

- *the "noise level" is the A-weighted 24-hour equivalent (L_{eq}) sound level based on either the Average Annual Daily Traffic (AADT) data or, where available, the Summer Average Daily Traffic (SADT) data, whichever is the higher. The equivalent (L_{eq}) sound level is a good indication of how people react to freeway noise.*

CONSULTATION PROCEDURES

1. Official Plans

If an official plan is under preparation, a municipality should consult with the Ministry of the Environment regarding appropriate actions to be taken e.g. preparation of background studies, noise control statements to be included in the plan, and effective means of implementation.

2. Official Plan Amendments and Secondary Plans

If an amendment to an official plan or a secondary plan is under preparation, a municipality should consult with the Ministry of the Environment regarding appropriate actions to be taken e.g. preparation of a feasibility study for the entire area affected by freeway noise, preparation of an integrated noise control policy for the subdivision(s) covered by the plan, and effective means of implementation.

3. Plans of Subdivision

Prior to making a subdivision application, a developer should make early contact with the Ministry of the Environment to discuss available noise control options when the development is within one kilometre of the edge of a freeway right-of-way. The distance may vary with different conditions of traffic, topography and existing development.

Noise control measures may include, but are not limited to, the following:

i) Site Planning - orientation of buildings and outdoor recreational areas with respect to noise sources, spatial separation such as insertion of sound-insensitive land uses between source and receiver and appropriate setbacks; and

ii) Acoustical Barriers - berms, walls, favourable topographical features, other intervening structures.

Publications on noise control measures are available from the Ministry of the Environment.

PROCEDURES FOR APPLICATION OF POLICY

1. Official Plans and Amendments

Municipalities with freeways, as defined in the policy, should incorporate the provincial policy on Noise and New Residential Development Adjacent to Freeways in new official plans and in amendments for new residential development within one kilometre of a freeway. If the policy is not included, the approval authority may modify the plan or amendment to include the policy.

2. Plans of Subdivision

A subdivision application to the approval authority which is within one kilometre of a freeway, as defined in the policy, should include the following information:

Location of freeways - The plans should indicate the existing or planned future location of freeways within one kilometre.

Site plan - The site plan should show the topography of the site, elevation and layout of the various existing buildings or proposed structures.

Establishing the noise levels on site - The noise levels anticipated on the site should be established by the use of predication techniques acceptable to the approval authority and the Ministry of the Environment based, when necessary, on actual measurements. In all cases, consideration should be given to anticipated future increases in noise levels for at least ten years.*

The approval authority should ensure that such a subdivision conforms to the provincial policy by circulating the plan of subdivision to the Ministries of the Environment and Transportation and Communications for comments and technical advice on noise control measures.

The approval authority, upon weighing this advice against other technical, administrative and economic considerations, may then give draft

---

* Current traffic information and traffic predictions for any particular provincial freeway may be obtained from the Ministry of Transportation and Communications. Developers may obtain further information on traffic noise prediction techniques from the most up-to-date government publications, from acoustical literature, and from the Noise Polution Control Section of the Ministry of the Environment, Toronto.

approval with appropriate conditions which will be implemented through a subdivision or development agreement.

3. Zoning By-law Amendments

A municipality should ensure that a zoning by-law amendment for a residential development which is within one kilometre of a freeway, as defined in the policy, conforms to the provincial policy by referring the amendment before it is passed to the Ministry of the Environment for comment. Since site planning is a major noise control measure, the municipality may be advised to use section 39 of The Planning Act.* If the municipality passes such a by-law without having regard to the provincial policy, the Region or other delegated authority, the Ministries of Housing, Environment, and if a provincial freeway is involved, Transportation and Communications, will have to determine whether or not a potential noise problem exists and, if necessary, may object to the Ontario Municipal Board.

---

* Ministry of Housing. Guidelines for Development Control (Site Plan Control) - The Planning Act: Section 35a. February 1975.


MAY
16

MINISTRY OF HOUSING

The Honourable Claude F. Bennett, *Minister*
Richard Dillon, *Deputy Minister*
Wojciech Wronski, *Assistant Deputy Minister, Community Planning*
John Bell, Q.C., *General Counsel*

Local Planning Policy Branch

G. Keith Bain, *Director*
Gerald Fitzpatrick, *Manager, Policy Section*
Paul Featherstone, *Senior Planner*
Paul Ross, *Senior Planner*
Evan Wood, *Senior Planner*